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LAW N° 48/2015 OF 23/11/2015 GOVERNING
THE ORGANISATION, FUNCTIONING AND
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SCHEMES IN RWANDA

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ISHAKIRO

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**ITEGEKO N°48/2015 RYO KU WA
23/11/2015 RIGENA IMITERERE,
IMIKORERE N'IMICUNGIRE
Y'UBWISHINGIZI BW'INDWARA MU
RWANDA**

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

**INTEKO ISHINGA AMATEGEKO
YEMEJE NONE NATWE DUHAMUJE,
DUTANGAJE ITEGEKO RITEYE RITYA
KANDI DUTEGETSE KO RYANDIKWA
MU IGAZETI YA LETA YA REPUBLICA
Y'U RWANDA**

INTEKO ISHINGA AMATEGEKO:

Umutwe w'Abadepite, mu nama yawo yo ku wa 11 Nzeri 2015;

Umutwe wa Sena, mu nama yawo yo ku wa 7 Nzeri 2015;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 4 Kamena 2003 nk'uko ryavugururwe kugeza ubu cyane cyane mu ngingo zaryo iya 9, iya 11, iya 41, iya 62, iya 66, iya 67, iya 88, iya 89, iya 90, iya 92, iya 93, iya 95, iya 108, iya 118 n'iya 201;

YEMEJE:

**LAW N°48/2015 OF 23/11/2015 GOVERNING
THE ORGANISATION, FUNCTIONING AND
MANAGEMENT OF HEALTH INSURANCE
SCHEMES IN RWANDA**

We, KAGAME Paul,
President of the Republic;

**THE PARLIAMENT HAS ADOPTED AND WE
SANCTION, PROMULGATE THE
FOLLOWING LAW AND ORDER IT BE
PUBLISHED IN THE OFFICIAL GAZETTE OF
THE REPUBLIC OF RWANDA**

THE PARLIAMENT:

The Chamber of Deputies, in its session of 11 September 2015;

The Senate, in its session of 7 September 2015;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially in Articles 9, 11, 41, 62, 66, 67, 88, 89, 90, 92, 93, 95, 108, 118 and 201;

ADOPTS:

**LOI N°48/2015 DU 23/11/2015 PORTANT
ORGANISATION, FONCTIONNEMENT ET
GESTION DES REGIMES D'ASSURANCE
MALADIE AU RWANDA**

Nous, KAGAME Paul,
Président de la République;

**LE PARLEMENT A ADOPTE ET NOUS
SANCTIONNONS, PROMULGUONS LA LOI
DONT LA TENEUR SUIT ET ORDONNONS
QU'ELLE SOIT PUBLIEE AU JOURNAL
OFFICIEL DE LA REPUBLIQUE DU
RWANDA**

LE PARLEMENT:

La Chambre des Députés, en sa séance du 11 septembre 2015;

Le Sénat, en sa séance du 7 septembre 2015;

Vu la Constitution de la République du Rwanda du 4 juin 2003 telle que révisée à ce jour, spécialement en ses articles 9, 11, 41, 62, 66, 67, 88, 89, 90, 92, 93, 95, 108, 118 et 201;

ADOPTE:

**UMUTWE WA MBERE: INGINGO
RUSANGE**

Ingingo ya mberere: Icyo iri tegeko rigamije

Iri tegeko rigena imiterere, imikorere n'umicungire y'ubwishingizi bw'indwara mu Rwanda.

Ingingo ya 2: Ibisobanuro by'amagambo

Muri iri tegeko, amagambo akurikira afitte ibisobanuro bikurikira:

- 1° **amasezerano:** ubwumvikane hagati y'umwishingizi n'umunyamuryango ku bwishingizi bw'indwara kugira ngo hatangwe ibikorwa by'ubuvuzi hashingiwe ku misanzu yatanzwe;
- 2° **ibigo bitanga ibikorwa by'ubuvuzi:** ibigo by'ubuvuzi cyangwa abantu bakora umwuga wo kuvura bagiranye amasezerano n'ibigo bya Leta cyangwa by'abigenga by'ubwishingizi bw'indwara;
- 3° **Inama:** inama y'Igihugu y'Ubwishingizi bw'Indwara mu Rwanda;
- 4° **inyunganirabwishyu:** uruhare rw'umunyamuryango cyangwa uwo yishingiye mu kwishyura ibikorwa by'ubuvuzi yakorewe;

CHAPTER ONE: GENERAL PROVISIONS

Article One: Purpose of this Law

This Law determines the organization, functioning and management of health insurance schemes in Rwanda.

Article 2: Definitions of terms

In this Law, the following terms shall have the following meanings:

- 1° **contract:** a health insurance agreement between an insurer and an affiliate for the provision of healthcare services in exchange for the premiums or contributions paid;
- 2° **healthcare entities:** healthcare entities or medical practitioners having entered into agreements with public or private health insurance entities;
- 3° **Council:** National Health Insurance Council;
- 4° **co-payment fee:** a proportionate share paid by an affiliate or his/her eligible beneficiary in exchange for healthcare services received;

**CHAPITRE PREMIER : DISPOSITIONS
GENERALES**

Article premier: Objet de la présente loi

La présente loi détermine l'organisation, le fonctionnement et la gestion des régimes d'assurance maladie au Rwanda.

Article 2: Définitions des termes

Aux fins de la présente loi, les termes repris ci-après ont les significations suivantes:

- 1° **contrat:** accord d'assurance-maladie entre un assureur et un membre affilié en vue de la prestation des services de soins de santé en contrepartie des primes ou de cotisations payées ;
- 2° **entités de santé :** entités de soins de santé ou médecins ayant conclu des accords avec les entités publiques ou privées d'assurance maladie;
- 3° **Conseil :** Conseil National de l'Assurance Maladie ;
- 4° **ticket modérateur:** quote-part payée par l'affilié ou son ayant-droit en contrepartie des services de soins de santé reçus;

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- 5° **itsinda:** abantu barenze umwe bishyira hamwe kugira ngo babone uko bafata ubwishingizi bw'indwara;
- 6° **ubwishingizi bw'indwara:** uburyo bushingiye ku bwumvikane hagati y'umuntu, itsinda ry'abantu cyangwa se umuryango utanga umusanzu ku bwishingizi bw'indwara, hagamijwe guhabwa ibikorwa by'ubuvuzi;
- 7° **ubwishingizi bw'indwara butagamije inyungu :** uburyo bwo kwishyura no gucunga ubwishingizi bw'indwara, bushingiye ku bwisungane mu kwivuza;
- 8° **Ubwisungane mu kwivuza:** uburyo magirirane abantu bishyira hamwe batanga imisanzu biteganyiriza hamwe n'imiryango yabo kugira ngo bashobore kwirinda indwara no kwivuza igihe barwaye;
- 9° **umuntu uri mu kiruhuko cy'izabukuru:** umuntu wese wemerewe guhabwa amafaranga y'izabukuru hashingiwe ku mategeko abigena;
- 10° **umunyamuryango:** umuntu wese utanga umusanzu w'ubwishingizi bw'indwara butangwa n'ibigo byemewe n'amategeko kandi akaba afite ikarita y'ubunyamuryango;
- 5° **group:** two or more individuals who jointly subscribe to health insurance;
- 6° **health insurance:** a mutual arrangement whereby a person, group or household pays premiums or contributions to a health insurance for the purpose of receiving healthcare services;
- 7° **social health insurance:** a form of financing and managing health insurance based on risk pooling in healthcare;
- 8° **Community-based health insurance scheme:** a mutual help system whereby people organize themselves collectively by paying contributions for themselves and their families to protect themselves against diseases and to access healthcare services in case of sickness;
- 9° **retired person:** any person entitled to receive pension benefits in accordance with relevant laws;
- 10° **affiliate:** any person who pays a contribution towards health insurance provided by recognized schemes and who is a holder of a membership card;
- 5° **groupe :** deux ou plusieurs personnes physiques se regroupant pour souscrire à une assurance maladie ;
- 6° **assurance maladie :** accord mutuel par lequel une personne, un groupe de personnes ou un ménage paie des primes ou cotisations à une assurance maladie en vue de bénéficier des services de soins de santé ;
- 7° **assurance maladie sociale:**forme de financement et de gestion de l'assurance maladie fondée sur la mutualisation des risques en matière de soins de santé;
- 8° **Mutuelle de santé:** système d'entraide mutuelle grâce auquel les gens s'organisent collectivement en versant des cotisations pour eux- mêmes et leurs familles en vue de se protéger contre les maladies et de bénéficier des soins de santé en cas de maladie;
- 9° **retraité:** toute personne ayant droit à des prestations de retraite conformément aux lois en la matière ;
- 10° **affilié :** toute personne qui paie une cotisation en vue d'une assurance maladie fournie par les régimes agréés et qui est titulaire d'une carte de membre;

11° **umusanzu ku bwishingizi bw'indwara butagamije inyungu mu bwishingizi bw'indwara butangwa na Leta:** amafaranga yishyurwa n'uwishinganisha cyangwa uwishyurirwa n'umufatabuguzi, hakurikijwe ibyemezwa n'ubwishingizi kugira ngo ahabwe ibikorwa by'ubuvuzi;

12° **umusanzu ku bwishingizi bw'indwara butangwa n'ibigo biharanira inyungu:** amafaranga yishyurwa cyangwa yishyurirwa umunyamuryango agenewe ibikorwa by'ubwishingizi bw'indwara;

13° **umwishingizi:** Ikigo cya Leta, icy'abikorera, ikigo cy'ubwisungane mu kwivuza, ishyirahamwe n'undi wese ukora umurimo w'ubwishingizi wemewe gukorera ibikorwa by'ubwishingizi bw'indwara mu Rwanda;

14° **uwishingirwa n'umunyamuryango:** umuntu wese wishyurirwa imisanzu cyangwa uwegamiye ku munyamuryango.

11° **health insurance contribution to the Government-provided health insurance :** an amount paid by the insured or the affiliate's eligible beneficiary according to insurance terms and conditions for the purpose of receiving healthcare services;

12° **commercial health insurance premium:** an amount paid by or for the affiliate for health insurance purposes;

13° **insurer:** a public, private entity, community-based health insurance scheme, association and any other person carrying out insurance business authorized to engage in health insurance business in Rwanda;

14° **affiliate's eligible beneficiary:** any person whose premiums are paid by a third party or who is a dependent of the affiliate.

11° **cotisation d'assurance maladie sociale à l'assurance maladie fournie par l'Etat:** montant payé par l'assuré ou par un ayant-droit de l'affilié conformément aux conditions d'assurance en vue de bénéficier des services de soins de santé;

12° **prime d'assurance maladie commerciale:** montant payé par ou pour l'affilié à des fins d'assurance maladie;

13° **assureur :** entité publique, privée, mutuelle de santé, association et toute autre personne engagée dans les activités d'assurance autorisée à exercer les activités d'assurance maladie au Rwanda;

14° **ayant-droit de l'affilié :** toute personne dont les primes sont payées par un tiers ou qui est à charge de l'affilié.

Ingingo ya 3: Kugira ubwishingizi bw'indwara

Kugira ubwishingizi bw'indwara birategetswe.

Umuntu wese uri ku butaka bw'u Rwanda, yaba Umunyarwanda cyangwa Umunyamahanga ategetswe kuba afite ubwishingizi bw'indwara.

Article 3: Having health insurance

Health insurance shall be mandatory.

Any person, whether a Rwandan or a foreign national, who is on the Rwandan territory shall be required to have health insurance.

Article 3: Avoir une assurance maladie

L'assurance maladie est obligatoire.

Toute personne, qu'elle soit un ressortissant rwandais ou étranger, se trouvant sur le territoire rwandais est tenue d'avoir une assurance maladie.

Umuntu wese winjira mu Rwanda nta bundi bwishingizi afite ategetswe kuba yabonye ubwishingizi bitarenze iminsi mironko itatu (30) mu kigo cy'ubwishingizi yahisemo.

Any person entering the Rwandan territory without having any other form of insurance must subscribe to insurance with an insurance regime of his/her choice within a period not exceeding thirty (30) days.

Toute personne entrant sur le territoire rwandais sans avoir une autre forme d'assurance, doit, dans un délai n'excédant pas trente (30) jours, souscrire à une assurance auprès d'un régime d'assurance de son choix.

Ingingo ya 4: Uruhare rw'umukoresha mu kwishyura imisanzu y'ubwishingizi bw'indwara ku bakozi

Article 4: Employer's contribution to the payment of health insurance contributions for employees

Article 4: Contribution de l'employeur au paiement des cotisations d'assurance maladie pour les employés

Umukoresha wese, yaba Leta cyangwa utegamiye kuri Leta ategetswe kugira uruhare mu kwishyura imisanzu y'ubwishingizi bw'indwara ku bakozi be mu kigo cy'ubwishingizi cyemewe kandi cyujuje ibisabwa n'amategeko.

Any employer, whether public or private, shall be required to contribute to the payment of his/her employees' health insurance contributions in a recognized insurance scheme satisfying conditions required by law.

Tout employeur, tant public que privé, est tenu de contribuer au paiement des cotisations d'assurance maladie de ses employés auprès d'un régime d'assurance agréé et remplissant les conditions requises par la loi.

Buri mukoresha wese atanga gihamyana yerekana ko yatanze ubwishingizi bw'abakozi be.

Each employer shall furnish proof of having subscribed to insurance for his/her employees.

Chaque employeur présente une preuve de souscription d'une assurance pour ses employés.

Ingingo ya 5: Ubwishingizi bw'indwara ku bantu bagiye mu kiruhuko cy'izabukuru

Article 5: Health insurance coverage for retired persons

Article 5: Couverture d'assurance maladie pour les retraités

Umuntu ugiye mu kiruhuko cy'izabukuru afite ubwishingizi bw'indwara butangwa n'ikigo cya Leta akomeza guhabwa ubwo bwishingizi n'icyo kigo.

A person who retires while having health insurance provided by a public health insurance entity shall continue to be covered by such a health insurance entity.

Une personne qui part à la retraite ayant une assurance souscrite auprès d'une entité publique d'assurance maladie continue d'être couverte par l'assurance de cette entité.

Umuntu ugiye mu kiruhuko cy'izabukuru afite ubwishingizi butangwa n'ikigo giharanira inyungu avurwa hakurikijwe amasezerano yagiranye n'icyo kigo.

A person who retires while having insurance provided by a commercial health entity shall receive healthcare in accordance with his/her existing contract with this entity.

Une personne qui part à la retraite ayant une assurance souscrite auprès d'une entité commerciale d'assurance maladie bénéficie des soins de santé conformément au contrat déjà conclu avec cette entité.

Iteka rya Minisitiri ufite ubwiteganyirize mu nshingano, rigena imiterere y'imisanzu kubari mu

An Order of the Minister in charge of social security shall determine the type of contributions of the

Un Arrêté du Ministre ayant la sécurité sociale dans ses attributions détermine la nature des

zabukuru bavugwa mu gika cya mbere cy'iyi ngingo.	retired persons provided under Paragraph One of this Article.	cotisations des retraités visés à l'alinéa premier du présent article.
<u>Ingingo ya 6:</u> Ibyiciro by'ubwishingizi bw'indwara	<u>Article 6:</u> Types of health insurance	<u>Article 6:</u> Types d'assurance maladie
Ubwishingizi bw'indwara bukubiye muri ibi bice bikurikira:	Types of health insurance shall be the following:	Les types d'assurance maladie sont les suivants:
1° ubwishingizi ku ndwara budaharanira inyungu;	1° social health insurance;	1° l'assurance maladie sociale ;
2° ubwishingizi ku ndwara butangwa n'ibigo biharanira inyungu.	2° commercial health insurance.	2° l'assurance maladie commerciale.
Imitunganyirize y'ubwishingizi bw'indwara muri buri cyiciro iteganywa n'amategeko yihariye.	The organization of each type of health insurance shall be governed by specific laws.	L'organisation de chaque type d'assurance maladie est régie par des lois particulières.
<u>UMUTWE WA II: UBWISHINGIZI BW'INDWARA BUDAHARANIRA INYUNGU</u>	<u>CHAPTER II: SOCIAL HEALTH INSURANCE</u>	<u>CHAPITRE II: ASSURANCE MALADIE SOCIALE</u>
<u>Ingingo ya 7:</u> Ibyiciro by'ubwishingizi bw'indwara budaharanira inyungu	<u>Article 7:</u> Categories of social health insurance	<u>Article 7:</u> Catégories de l'assurance maladie sociale
Ubwishingizi bw'indwara budaharanira inyungu bugizwe n'ibi bikurikira:	Social health insurance shall consist of the following :	L'assurance maladie sociale se compose de ce qui :
1° ubwishingizi bw'indwara butangwa n'ibigo bya Leta;	1° health insurance provided by public entities;	1° l'assurance maladie fournie par les entités publiques;
2° ubwisungane mu kwivuzza;	2° community-based health insurance schemes;	2° les mutuelles de santé;
3° ubwishingizi butangwa n'amashyirahamwe y'ubwishingizi ku	3° insurance provided by health insurance associations.	3° l'assurance fournie par les associations d'assurance maladie.

ndwara.

Icyiciro cya mbere: Ubwishingizi bw'indwara butangwa n'ibigo bya Leta

Ingingo ya 8: Abarebwa n'ubwishingizi bw'indwara butangwa n'ibigo bya Leta

Ubwishingizi bw'indwara butangwa n'ibigo bya Leta bureba aba bakurikira:

- 1° mandateri politiki babihemberwa;
- 2° umukozi wa Leta yaba agengwa na sitati yihariye cyangwa sitati rusange y'abakozi ba Leta cyangwa n'amasezerano y'umurimo;
- 3° umukozi ukora mu kigo cyigenga;
- 4° umuntu uri mu kiruhuko cy'izabukuru.

Abikorera cyangwa abakorera mu bigo byigenga bihitiramo ibigo by'ubwishingizi bw'indwara bashatse. Ba mandateri politiki babihemberwa n'abakozi ba Leta bagomba gufatirwa ubwishingizi bw'indwara mu bigo by'ubwishingizi bya Leta.

Iteka rya Minisitiri ufite ubwiteganyirize mu nshingano ze riteganya uburyo umuntu ku giti cye n'uri mu kiruhuko cy'izabukuru bafata ubwishingizi butangwa n'ibigo by'ubwishingizi bya Leta.

Section One: Health insurance provided by public entities

Article 8: Persons covered by health insurance provided by public entities

Health insurance provided by public entities shall cover the following persons:

- 1° political leaders remunerated for acting in such capacity;
- 2° a public servant governed by a special statute or the General Statutes for Public Service or employment contract;
- 3° a private sector employee;
- 4° a retired person.

Self-employed individuals or those working for private institutions shall join health insurance schemes of their choice. Political leaders remunerated for acting in such capacity and public servants must have their health insurance subscribed to health insurance public entities.

An Order of the Minister in charge of social security shall determine modalities for affiliation of self-employed individual and retired person to health insurance public entities.

Section première : Assurance maladie fournie par les entités publiques

Article 8: Personnes couvertes par l'assurance maladie fournie par les entités publiques

L'assurance maladie fournie par les entités publiques couvre les personnes suivantes:

- 1° les mandataires politiques rémunérés au titre de cette qualité;
- 2° l'agent de l'Etat régi par un statut particulier ou le Statut Général de la Fonction Publique ou un contrat de travail;
- 3° l'employé au sein du secteur privé;
- 4° un retraité.

Les travailleurs autonomes ou ceux travaillant pour les institutions privées sont affiliés auprès des entités d'assurance maladie de leur choix. Les mandataires politiques rémunérés en cette qualité et les agents de l'Etat doivent se voir affilier auprès des entités publiques d'assurance maladie.

Un Arrêté du Ministre ayant la sécurité sociale dans ses attributions détermine les conditions d'affiliation d'un travailleur autonome et d'une personne retraitée auprès des entités publiques d'assurance maladie.

Ingingo ya 9: Abagize umuryango b'uwashe ubwishingizi

Abagize umuryango b'uwashe ubwishingizi ni aba bakurikira:

- 1° uwo bashakanye byemewe n'amategeko;
- 2° umwana wemewe n'amategeko mbonzambano.

Umwana uvugwa mu gace ka kabiri (2) agomba kuba ari ingaragu, atarengeje imyaka makumyabiri n'umwe y'amavuko (21), kandi nta mushahara abona wa buri kwezi.

Umwana wiga akomeza kwishingirwa kugeza ku myaka makumyabiri n'itanu (25) mu gihe agaragarije umwishingizi icyemezo cy'ishuri.

Icyakora, umwana ufite ubumuga bumubuza gukora icyo aricyo cyose gituma atagira icyo yimarira akomeza kwishingirwa kabone niyo yaba arengeje imyaka makumyabiri n'itanu (25) y'amavuko. Ubwo bumuga bugomba kuba bwemejwe na muganga wemewe na Leta.

Ingingo ya 10: Imisanzu

Imisanzu itangwa n'umukoresha n'umukozi. Icyakora, umukoresha abishatse ayatanga yose. Umukoresha niwe ushinze kumenyekanisha, gutanga no kugaragaza ko imisanzu y'umukozi we yatanze, harimo uruhare rwe n'urw'umukozi.

Article 9: Family members of the affiliate

Family members of the affiliate shall be the following:

- 1° his/her legal spouse;
- 2° a child recognized under civil law.

The child referred to under item 2 should be unmarried, not exceeding twenty-one (21) years of age and unemployed.

A child who is still a student shall continue to be insured up to the age of twenty-five (25) years provided that he/she submits a certificate of attendance to the insurer.

However, a child with a disability that prevents him/her from earning a living shall continue to be an insured person even though he/she may be aged more than twenty-five (25) years. Such a disability shall be certified by an authorized medical doctor.

Article 10: Contributions

Contributions shall be shared between the employer and the employee. However, the employer may freely choose to pay the full amount of contributions. The employer shall have the responsibility to report and pay employee contributions and prove payment thereof, indicating the employer's and employee's

Article 9: Membres de famille de l'affilié

Les membres de famille de l'affilié sont les suivants:

- 1° son conjoint légal;
- 2° un enfant reconnu en vertu du droit civil.

L'enfant visé au point 2 doit être célibataire, âgé de vingt-et-un (21) ans au plus et sans emploi mensuel rémunéré.

Un enfant qui fait encore ses études continue d'être assuré jusqu'à l'âge de vingt-cinq (25) ans à condition qu'il présente à l'assureur une attestation de fréquentation.

Toutefois, un enfant qui a un handicap l'empêchant de gagner sa vie continue d'être un assuré quand bien même il serait âgé de plus de vingt-cinq (25) ans. Un tel handicap doit être certifié par un médecin agréé.

Article 10: Cotisations

Les cotisations sont partagées entre l'employeur et l'employé. Toutefois, l'employeur peut de son propre gré payer la totalité du montant de ces cotisations. L'employeur est tenu de déclarer et de verser les cotisations de son employé et d'en prouver le versement en indiquant sa part et celle

<u>Icyiciro cya 2: Ubwisungane mu kwivuza</u>	share. <u>Section 2: Community-based health insurance schemes</u>	de l'employé. <u>Section 2 : Mutuelles de santé</u>
<u>Ingingo ya 11: Abarebwa n'ubwishingizi bw'ubwisungane mu kwivuza</u>	<u>Article 11: Persons required to join community-based health insurance schemes</u>	<u>Article 11: Personnes devant s'affilier aux mutuelles de santé</u>
Umunyarwanda wese udafite ubundi bwishingizi buvugwa muri iri tegeko agomba kugira ubwishingizi bw'ubwisungane mu kwivuza.	Any Rwandan national without any other health insurance provided under this Law must have a community-based health insurance.	Tout Rwandais n'ayant aucune autre assurance maladie visée par la présente loi doit être affilié à une mutuelle de santé.
<u>Ingingo ya 12: Umusanzu n'inkunga mu bwisungane mu kwivuza</u>	<u>Article 12: Contribution to and financing of community-based health insurance schemes</u>	<u>Article 12: Cotisation et financement pour les mutuelles de santé</u>
Mu bwisungane mu kwivuza buri muntu atanga cyangwa atangirwa umusanzu we ku giti cye.	In case of community-based health insurance scheme, the contribution shall be paid on an individual basis by the concerned person or by another party on his/her behalf.	En cas de mutuelle de santé, la cotisation est individuelle et est versée par la personne concernée ou pour le compte de cette dernière par un tiers.
Ibigo by'ubwishingizi bw'indwara, byaba ibihararira inyungu n'ibya Leta, bitanga inkunga mu bwisungane mu kwivuza. Izindi nkunga zishobora guturuka ahandi ahari ho hose.	Both commercial and public health insurance entities shall contribute to the financing of community-based health insurance schemes. There can also be any other sources of financing.	Les entités d'assurance maladie tant commerciales que publiques contribuent au financement des mutuelles de santé. Il peut y avoir également d'autres sources de financement.
<u>Icyiciro cya 3: Ubwishingizi mu kwivuza butangwa n'amashyirahamwe</u>	<u>Section 3: Health insurance provided by associations</u>	<u>Section 3 : Assurance maladie fournie par les associations</u>
<u>Ingingo ya 13: Abarebwa n'ubwishingizi bw'indwara butangwa n'amashyirahamwe</u>	<u>Article 13: Persons to be covered by health insurance provided by associations</u>	<u>Article 13 : Personnes devant être couvertes par l'assurance maladie fournie par les associations</u>
Ubwishingizi bw'indwara butangwa n'amashyirahamwe bureba abantu, baba ababarizwa mu ishyirahamwe rimwe cyangwa mu mashyirahamwe yishyize hamwe mu buryo	Health insurance provided by associations shall cover members of the same association or members from more than one association that legally bind together for community-based health insurance purposes.	L'assurance maladie fournie par des associations couvre les membres d'une même association ou des associations différentes qui se sont regroupées légalement en vue de la mutuelle de santé.

bwemewe n'amategeko, bagamije ubwisungane mu kwivuza.

Kugira ngo ishyirahamwe ryemewe n'amategeko rishobore gukora ibikorwa by'ubwishingizi bw'indwara rigomba kuba rifite icyemezo gitangwa n'urwego rutanga uburenganzira bwo gukora umurimo w'ubwishingizi mu Rwanda.

Ingingo 14: Imisanzu

Imisanzu itangwa n'abanyamuryango b'amashyirahamwe mu kwivuza yemezwa n'inama rusange y'abanyamuryango hakurikijwe imirongo ngenderwaho igenwa n'urwego rushinzwe gutanga amabwiriza ajyanye n'imitunganyirize y'umurimo w'ubwishingizi.

UMUTWE WA III: UBWISHINGIZI BW'INDWARA BUTANGWA N'IBIGO BIHARANIRA INYUNGU

Ingingo ya 15: Abarebwa n'ubwishingizi bw'indwara butangwa n'ibigo biharanira inyungu

Ubwishingizi bw'indwara butangwa n'ibigo biharanira inyungu bufatwa ku bushake bwa buri muntu ku giti cyane cyangwa itsinda ry'abantu bagirana amasezerano y'ubwishingizi bw'indwara n'ikigo kibutanga.

Birabujijwe guheza umuntu uwo ari we wese cyangwa itsinda ry'abantu hashingiwe ku ivangura iryo ariyo ryose mu gufata

In order for a legally recognised association to carry out health insurance business, the association must have an authorization issued by the authority regulating insurance business in Rwanda.

Article 14: Contributions

Contributions paid by members of health insurance associations shall be approved by the general assembly of members in compliance with the guidelines issued by the authority regulating insurance business.

CHAPTER III: COMMERCIAL HEALTH INSURANCE

Article 15: Persons to be covered by commercial health insurance

Commercial health insurance shall be subscribed by an individual on a voluntary basis or a group of people who conclude a health insurance contract with the insurance provider.

It is prohibited to deny a person or a group of persons access to health insurance services for any reason based on discrimination of any kind.

Une association légalement reconnue doit, avant d'exercer les activités d'assurance maladie, avoir une autorisation de l'autorité chargée de la réglementation des activités d'assurance au Rwanda.

Article 14 : Cotisations

Les cotisations payées par les membres des associations d'assurance maladie sont approuvées par l'assemblée générale des membres en conformité avec les lignes directrices fixées par l'autorité chargée de la réglementation des activités d'assurance.

CHAPITRE III: ASSURANCE MALADIE COMMERCIALE

Article 15 : Personnes devant être couvertes par l'assurance maladie commerciale

L'assurance maladie commerciale est souscrite par un individu à titre volontaire ou par un groupe de personnes ayant conclu un contrat d'assurance maladie avec le fournisseur d'assurance.

Il est interdit de refuser à une personne ou à un groupe de personnes l'accès aux services d'assurance maladie pour un motif quelconque

ubwishinginzi bw'indwara.

fondé sur une forme de discrimination quelle qu'elle soit.

Ingingo ya 16: Imisanzu itangwa mu bigo by'ubwishingizi bw'indwara biharanira inyungu

Article 16: Premiums payable to commercial health insurance entities

Article 16: Primes payées auprès des entités commerciales d'assurance maladie

Imisanzu itangwa mu bigo by'ubwishingizi bw'indwara biharanira inyungu ishingira ku masezerano hagati y'umwishingizi n'uwishingiwe indwara.

The amount of premiums payable to commercial health insurance entities shall be based on the contract between the insurer and the insured person.

Les primes payées auprès des entités commerciales d'assurance maladie sont basées sur le contrat conclu entre l'assureur et l'assuré.

Ibipimo ntarengwa by'iyo misanzu bigenwa hakurikijwe amabwiriza y'urwego rutanga uburenganzira bwo gukora umurimo w'ubwishingizi mu Rwanda.

The maximum amount of the premiums to be charged shall be determined by the authority regulating insurance business in Rwanda.

Le montant maximum des primes à payer est déterminé par l'autorité chargée de la réglementation des activités d'assurance au Rwanda.

Ingingo ya 17: Ibikubiye mu masezerano y'ubwishingizi bw'indwara butangwa n'ibigo by'ubwishingizi bw'indwara biharanira inyungu

Article 17: Contents of commercial health insurance contract

Article 17: Contenu d'un contrat d'assurance maladie commerciale

Amasezerano y'Ubwishingizi bw'indwara butangwa n'ibigo by'ubwishingizi bw'indwara biharanira inyungu akubiyemo iby'ingenzibikurikira:

The commercial health insurance contract shall include the following basic information:

Le contrat d'assurance maladie commerciale comprend les informations de base suivantes:

1° ibyo uwishingiwe ahabwa mu bwishingizi bw'indwara;

1° the types of health insurance benefits paid to the insured person;

1° la nature des prestations d'assurance maladie versées à l'assuré;

2° ibigo by'ubuvuzi byemewe mu gihugu kandi bifitanye amasezerano n'umwishingizi;

2° recognised healthcare entities having concluded agreements with the insurer;

2° les entités de santé agréés qui ont conclu des accords avec l'assureur;

3° ingano y'imisanzu;

3° the amount of premiums;

3° le montant des primes;

- | | | |
|---|---|--|
| 4° umuntu ushinzwe gukusanya no gutanga imisanzu y'abishingiwe iyo ubwishingizi buhawe itsinda; | 4° the person responsible for collection and remittance of contributions in case of group health insurance; | 4° la personne chargée de la perception et de la remise des cotisations en cas d'assurance maladie collective; |
| 5° ibishobora gutuma uwishingiwe atakaza ubwishingizi bw'indwara; | 5° conditions for termination of health insurance coverage for the insured person; | 5° les conditions de résiliation de la couverture d'assurance maladie pour l'assuré; |
| 6° ibisabwa kugira ngo uwishingiwe ahabwe ibikorwa by'ubuvuzi. | 6° requirements for the insured person's access to healthcare services. | 6° les conditions d'accès par l'assuré aux services de soins de santé. |

UMUTWE WA IV: INGINGO ZIHURIWEHO

CHAPTER IV: COMMON PROVISIONS

CHAPITRE IV: DISPOSITIONS COMMUNES

Ingingo ya 18: Inshingano z'umwishingizi

Article 18: Responsibilities of the insurer

Article 18: Responsabilités de l'assureur

Umwishingizi, ishyirahamwe cyangwa ikigo cy'ubwishingizi bw'indwara bifite inshingano zikurikira:

The insurer, association or health insurance entity shall have the following responsibilities:

L'assureur, l'association ou une entité d'assurance maladie ont les responsabilités suivantes:

- | | | |
|---|---|---|
| 1° gutegura ibikurikizwa kugira ngo umuntu afate ubwishingizi bw'indwara; | 1° to set conditions for subscribing to health insurance; | 1° fixer les conditions requises pour souscrire une assurance maladie ; |
| 2° kwishingira indwara cyangwa ibikorwa by'ubuvuzi ku wishingiwe cyangwa abo yishingiye nk'uko biteganywa n'iri tegeko cyangwa n'amasezerano y'ubwishingizi bw'indwara; | 2° to insure against diseases or healthcare services in favour of the insured person or his/her eligible beneficiaries as provided under this Law or under health insurance agreements; | 2° assurer l'assuré contre les maladies ou assurer des services de soins de santé en sa faveur ou en faveur de ses ayants-droit en vertu de la présente loi ou en vertu des contrats d'assurance maladie; |
| 3° gukurikirana imiterere n'ingano y'ibikorwa by'ubuvuzi bihabwa umunyamuryango n'uwishingirwa n'umunyamuryango hashingiwe ku masezerano umwishingizi afitanye n'ikigo gitanga ubuvuzi; | 3° to follow up on the quality and quantity of healthcare services provided to the affiliate and the affiliate's eligible beneficiary according to the agreement between the insurer and the healthcare entity; | 3° faire le suivi de la qualité et de la quantité des services de soins de santé offerts à l'affilié ou à l'ayant-droit de l'affilié conformément à l'accord entre l'assureur et l'entité de santé; |

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4° gutanga ibikorwa by'ubwishingizi bw'indwara ku muntu ku giti cye cyangwa itsinda ry'abantu;	4° to provide health insurance services to an individual or a group of people;	4° fournir des services d'assurance maladie à un individu ou à un groupe de personnes;
5° kugirana amasezerano n'ibigo by'ubuvuzi n'ibitanga imiti;	5° to enter into contracts with healthcare and pharmaceutical entities;	5° conclure des contrats avec les entités de santé et pharmaceutiques;
6° kugira uruhare mu kugena ibiciro by'ibikorwa by'ubuvuzi;	6° to participate in regulating prices of healthcare services;	6° participer à la régulation des prix des services des soins de santé;
7° kugira uruhare mu guteza imbere ibikorwa by'ubuvuzi;	7° to participate in the development of healthcare quality;	7° participer au développement de la qualité des soins de santé;
8° gukusanya no kugaragaza amakuru ajyanye n'ubwishingizi bw'ibikorwa by'ubuvuzi umunyamuryango n'uwishingirwa n'umunyamuryango bahawe;	8° to gather and reveal information regarding health insurance services provided to the affiliate and the affiliate's eligible beneficiary;	8° rassembler et révéler des informations concernant les services d'assurance maladie offerts à l'affilié ou à l'ayant-droit de l'affilié;
9° gusesa amasezerano bafitanye n'ibigo bitanga ibikorwa by'ubuvuzi iyo bitubahiriza uburenganzira bw'abanyamuryango;	9° to terminate contracts entered into with healthcare entities that violate the rights of the affiliates;	9° résilier les contrats conclus avec les entités de soins de santé qui violent les droits des affiliés;
10° kumenyesha abanyamuryango uburenganzira bafite ku bwishingizi bafashe;	10° to inform the affiliates about their rights to the insurance policy they have subscribed;	10° informer les affiliés de leurs droits à l'assurance qu'ils ont souscrite;
11° gutangaza imibare yerekana uburyo abanyamuryango n'abishingirwa n'umunyamuryango bahabwa ubuvuzi;	11° to report on statistics related to the consumption of healthcare services by the affiliates and affiliates' eligible beneficiaries;	11° publier les statistiques liés à la consommation des services de soins de santé par les affiliés et les ayants-droit des affiliés;
12° gushyiraho ibihano byihariye ku muntu wakoze cyangwa wirengagije gukora	12° to set specific sanctions applicable to a person who, contrary to contract or legal	12° fixer les sanctions particulières applicables à la personne qui,

ibikorwa runaka mu buryo bunyuranyije n'amasezerano cyangwa n'ingingo z'amategeko ajyanye n'ubwishingizi bw'indwara.

provisions relating to health insurance, undertakes or omits to undertake a given action.

contrairement aux contrats ou aux dispositions légales relatives à l'assurance maladie, pose ou omet de poser un acte donné.

Ingingo ya 19: Ibitishingirwa n'ubwishingizi bw'indwara

Article 19: Cases not covered by health insurance

Article 19: Cas non couverts par l'assurance maladie

Bimwe mu byo Ubwishingizi bw'indwara butishingira ni ibi bikurikira:

Some of the cases which are not covered by health insurance are the following:

Certains des cas non couverts par l'assurance maladie sont les suivants:

- 1° Ingaruka zo kudakurikiza amabwiriza ajyanye n'uburyo bwo kuvura;
- 2° kwivuzwa cyangwa kwipimisha indwara bidafitanye isano na zimwe mu ndwara zisuzumwa;
- 3° Ibiateganyijwe mu Iteka rya Minisitiri ufite ubuzima mu nshingano ze, rishyiraho ibikorwa by'ubuvuzi bitangwa, uretse icyo hari amasezerano yihariye.

- 1° failure to follow medical instructions regarding treatment;
- 2° treatment or laboratory tests unrelated to one of the illnesses subject to consultation;
- 3° cases that are not provided for under the Order of the Minister in charge of Health determining healthcare services provided unless there are special agreements.

- 1° les conséquences du non-respect des instructions médicales concernant le traitement ;
- 2° le traitement ou les examens de laboratoire n'ayant aucun rapport avec certaines des maladies faisant l'objet de consultation;
- 3° les cas non prévus par l'Arrêté du Ministre ayant la santé dans ses attributions déterminant les prestations de soins de santé fournies sauf s'il existe des accords particuliers.

Ingingo ya 20: Ibikorwa by'ubuvuzi n'ababitanga

Article 20: Healthcare packages and respective providers

Article 20: Gamme de prestations de soins de santé et prestataires respectifs

Abemerewe gutanga ibikorwa byo kuvura mu bwishingizi bw'indwara ni ibigo by'ubuvuzi bya Leta, ibigo by'abafatanyaga na Leta ku bw'amasezerano cyangwa iby'abigenga byemerewe gukora uwo mwuga kandi bifitanye

Those authorized to provide healthcare services as part of health insurance are public healthcare entities, healthcare entities having entered into cooperation agreement with the Government or private healthcare entities approved to that end and having entered into

Sont autorisés à offrir des services de soins de santé dans le cadre de l'assurance maladie, les entités de santé publiques, les entités de santé conventionnées ou privées agréées à cet effet et qui concluent des accords avec les entités

amasezerano n'ibigo by'ubwishingizi.

Iteka rya Minisitiri ufite ubuzima mu nshingano ze rishyiraho urutonde rw'ibikorwa by'ubuvuzi fatizo bitangwa hamwe n'ibijyanye no gusuzuma uko ubuzima bw'umuntu buhagaze.

Ingingo ya 21: Ibikorwa by'ubuvuzi byafatiwe ubundi bwishingizi

Indwara cyangwa impanuka bikomoka ku kazi, impanuka mu muhanda, ubuvuzi bw'abantu byishingirwa hakurikijwe amategeko abigenga.

Icyakora, iyo indwara cyangwa impanuka bivugwa mu gika cya mbere cy'iyi ngingo bigwiririyeye uwishingiwe n'ikigo cy'ubwishingizi bw'indwara kimwishingira kugeza igihe atangiye kwishyurirwa n'umwishingizi.

Iyo bigaragaye ko ibisabwa n'amategeko bituzuye kugira ngo umwishingizi nyakuri yishingire indwara cyangwa impanuka afite mu nshingano, kandi bigaragara ko hari umuntu wateje impanuka, ikigo cy'ubwishingizi ku ndwara cyishingira uwagwiririyeye n'iyi mpanuka nk'indwara isanzwe, ariko kigasigarana uburenganzira bwo gukurikirana uwabigizemo uruhare.

Kugira ngo uwishingirwa cyangwa uwo yishingira atishyuzwa ibyamutanzweho mu

contractual arrangements with insurance entities.

An Order of the Minister in charge of health shall determine a minimum healthcare package and the frequency of medical check-up services.

Article 21: Healthcare services insured by other insurers

Occupational diseases or accidents, road accidents and treatment of human diseases shall be insured in accordance with relevant legal provisions.

However, where a person insured under a given health insurance scheme is a victim of a disease or an accident referred to under Paragraph One of this Article, the insurance scheme shall continue to provide insurance coverage for him/her until the insurer starts paying for him/her.

Where it is established that the conditions required by law are not met for the insurer concerned to cover the costs of healthcare services in case of illness or an accident falling under his/her coverage and it becomes obvious that the accident is caused by a third party, the health insurance entity shall cover the victim as if he/she has an ordinary illness while retaining the right of action against the person having caused the accident.

For the insured or his/her eligible beneficiary not to be required to reimburse the costs of healthcare

d'assurance.

Un Arrêté du Ministre ayant la santé dans ses attributions détermine la gamme minimum de soins de santé et la fréquence des services de contrôle médical.

Article 21: Prestations de soins de santé assurées par d'autres assureurs

Les maladies ou les accidents professionnels, les accidents de roulage et le traitement des maladies humaines sont assurés conformément aux dispositions légales en la matière.

Toutefois, lorsqu'une maladie ou un accident visé à l'alinéa premier du présent article survient à une personne assurée par une entité d'assurance maladie, cette dernière continue de lui fournir une couverture d'assurance jusqu'à ce que l'assureur commence à assurer son paiement.

Lorsqu'il est constaté que les conditions requises par la loi ne sont pas remplies pour que l'assureur concerné prenne en charge les coûts des prestations en cas d'une maladie ou d'un accident relevant de sa couverture et qu'il est évident que l'accident est attribuable à un tiers, l'entité d'assurance maladie prend en charge la victime en tant que personne souffrant d'une maladie ordinaire tout en conservant le droit d'action contre l'auteur de l'accident.

Pour que l'assuré ou son ayant-droit ne soit pas obligé de rembourser les coûts des prestations de

kumuvuza, agomba kugeza ku kigo cy'ubwishingizi bw'indwara, mu gihe kitarenze amezi atatu (3), ibisobanuro n'inyandiko z'umwimerere zose zirebana n'ikosa yakorewe zishobora kugifasha kwishyura uwabigizemo uruhare.

Iteka rya Minisitiri ufite ubuzima mu nshingano ze rigena uburyo ibisabwa, n'igihe ntarengwa cyo kwishyura no kwishyura amafaranga ikigo cy'ubwishingizi bw'indwara cyishyuye ku bikorwa by'ubuvuzi byafatiwe ubundi bwishingizi.

Ingingo ya 22: Ikiranga uwishingiwe

Buri munyamuryango n'uwishingirwa n'umunyamuryango bagomba kugira icyemezo kigaragaza ko bafashe ubwishingizi bw'indwara mu kigo cy'ubwishingizi runaka.

Ingingo ya 23: Igihe cyo gutangira no kurangiza guhabwa ubwishingizi

Umunyamuryango hamwe n'uwishingirwa n'umunyamuryango batangira guhabwa ubwishingizi mu kwivuza guhera umunsi ikigo cy'ubwishingizi cyakiriye umusanzu we wa mbere, kugeza igihe umusanzu uhagarariye, bitabangamiye ko icyo gihe cyakwiyongera hakurikijwe umwihariko wa buri mwishingizi.

Icyakora, iyo habayeho gutegereza mbere yo guhabwa ubwishingizi, uwishingiwe hamwe

services received, he/she shall, within a period not exceeding three (3) months, provide the health insurance entity with explanations and all the original copies in connection with the harm suffered so that they can be used by the entity to claim for reimbursement of the costs from the person having caused the accident.

An Order of the Minister in charge of health shall determine applicable conditions, the deadline for claiming for and reimbursing costs of healthcare services covered by another insurance paid by the health insurance entity.

Article 22: Proof of insurance

Every affiliate and affiliate's eligible beneficiary must possess proof of subscribing to health insurance with a given insurance entity.

Article 23: Commencement and end of insurance cover

The insurance coverage for the affiliate and the affiliate's eligible beneficiary shall take effect as from receipt of his/her initial contribution by the insurance scheme and end with cessation of payment of contribution without prejudice to possible extension of that period depending on the peculiarities of each insurer.

However, when the beginning of the entitlement to insurance services is subject to a waiting period, the

soins reçues, il doit, dans un délai n'excédant pas trois (3) mois soumettre à l'entité d'assurance maladie les explications et toutes les copies originales en rapport avec le préjudice qu'il a subi pour que l'entité d'assurance s'en serve pour réclamer le remboursement des coûts auprès de l'auteur de l'accident.

Un Arrêté du Ministre ayant la santé dans ses attributions détermine les conditions applicables, les délais de réclamation et de règlement des remboursements des coûts des prestations de soins couvertes par une autre assurance payés par l'entité d'assurance maladie.

Article 22: Preuve d'affiliation

Chaque affilié et ayant-droit de l'affilié sont tenus de détenir une preuve d'affiliation à une assurance maladie dans une entité d'assurance donnée.

Article 23: Début et fin de la couverture d'assurance

La couverture d'assurance maladie pour l'affilié et l'ayant-droit de l'affilié prend effets dès la réception de sa cotisation initiale par l'entité d'assurance et prend fin à la cessation du versement de la cotisation sans préjudice d'une éventuelle prolongation de cette période en fonction des particularités de chaque assureur.

Toutefois, lorsque la naissance du droit aux prestations d'assurance est subordonnée à un délai

n'abandi bafite uburenganzira ku bwishingizi bwe bakomeza guhabwa ubwishingizi bw'indwara mu gihe kingana n'icyo bamaze bategereza gutangira guhabwa ubwo bwishingizi.

insured person and his/her eligible beneficiaries shall continue to enjoy insurance services for a period equivalent to the waiting period to which his/her entitlement to insurance services was subject.

d'attente, l'assuré et ses ayants-droit continuent de jouir du droit aux prestations d'assurance pour la période équivalente au délai d'attente auquel le droit à l'assurance a été subordonné.

Ingingo ya 24: Inshingano z'umunyamuryango

Article 24: Responsibilities of the affiliate

Article 24: Responsabilités de l'affilié

Umunyamuryango afite inshingano zikurikira:

The affiliate shall have the following responsibilities:

L'affilié a les responsabilités suivantes:

1° kwishyura imisanzu nk'uko isabwa;

1° to pay premiums or contributions as required;

1° payer les primes ou les cotisations requises;

2° kwishyura inyunganirabwishyu ku bikorwa by'ubuvuzi yakorewe;

2° pay co-payment fee for healthcare services received;

2° payer le ticket modérateur pour les prestations de soins reçues;

3° gutanga amakuru nyayo asabwa n'umwishingizi.

3° provide correct information as required by the insurer.

3° fournir des informations correctes exigées par l'assureur.

Ingano y'inyunganirabwishyu igenwa n'Iteka rya Ministiri ufite ubwiteganyirize mu nshingano ze.

The co-payment fee rate shall be determined by an Order of the Minister in charge of social security.

Le taux du ticket modérateur est déterminé par un Arrêté du Ministre ayant la sécurité sociale dans ses attributions.

Ingingo ya 25: Kwishyura inyemezabuguzi z'ibigo bitanga ubuvuzi

Article 25: Payment of bills from healthcare entities

Article 25: Règlement des factures des entités de santé

Inyemezabuguzi zemewe kandi nyazo zitangwa n'ibigo by'ubuvuzi zigomba kwishyurwa mu gihe cyumvikanweho hagati y'ikigo cy'ubuvuzi n'umwishingizi. Nyamara, umwishingizi ashobora kutishyura icyo giciro cyangwa kugabanya amafaranga agomba kwishyurwa iyo:

Approved and accurate bills from healthcare entities shall be paid within a period agreed upon by the healthcare facility and the insurer. However, the insurer may reject or reduce the costs claimed where:

Les factures approuvées et exactes établies par les entités de santé doivent être réglées dans un délai convenu entre l'entité et l'assureur. Toutefois, l'assureur peut refuser ou réduire les frais réclamés lorsque:

1° asanze ibisabwa nta shingiro bifite, bituzuye cyangwa bishingiye ku makuru

1° it considers that the claim is unfounded, inaccurate or based on insufficient

1° il estime que la demande est non fondée, incomplète ou se base sur des

adahagije;	information;	informations insuffisantes ;
2° ikigo cy'ubuvuzi kitubahirije nta mpamvu ifatika ibiteganywa muri iri tegeko cyangwa mu masezerano cyagiranye n'umwishingizi.	2° a healthcare entity failed to comply with the provisions of this Law or of the agreement with the insurer without just reason.	2° l'entité de santé ne s'est pas conformée aux dispositions de la présente loi ou à celles de l'accord avec l'assureur sans raison valable.
Icyo gihe ikigo cy'ubuvuzi kimenyeshwa ibyo kitubahirije.	In such a case, the healthcare entity shall be notified of its compliance failures.	Dans ce cas, l'établissement de santé est notifié de la non-conformité.
UMUTWE WA V: INAMA Y'UBWISHINGIZI KU NDWARA MU RWANDA	CHAPTER V: RWANDA HEALTH INSURANCE COUNCIL	CHAPITRE V: CONSEIL D'ASSURANCE MALADIE AU RWANDA
<u>ingingo ya 26: Inama y'Igihugu y'ubwishingizi bw'indwara</u>	<u>Article 26: National Health Insurance Council</u>	<u>Article 26: Conseil National d'Assurance Maladie</u>
Hashyizweho Inama y'Igihugu y'ubwishingizi bw'Indwara mu Rwanda. Inama y'Igihugu y'ubwishingizi igenzurwa na Minisitiri ifite ubwishingizi mu nshingano zayo.	There is hereby established a National Health Insurance Council in Rwanda. The National Health Insurance Council shall be supervised by the Ministry in charge of insurance.	Il est créé un Conseil National d'Assurance Maladie au Rwanda. Le Conseil National d'Assurance Maladie est placé sous tutelle du Ministère ayant l'assurance dans ses attributions.
Iteka rya Minisitiri w'Intebe rigena abayigize, imiterere n'imikorere yayo.	A Prime Minister's Order shall determine its composition, organization and functioning.	Un Arrêté du Premier Ministre détermine sa composition, son organisation et son fonctionnement.
<u>Ingingo ya 27: Inshingano z'Inama y'Igihugu y'ubwishingizi bw'indwara</u>	<u>Article 27: Responsibilities of the National Health Insurance Council</u>	<u>Article 27: Attributions du Conseil National d'Assurance Maladie</u>
Inama ifite inshingano y'ingenzi yo kugenzura ibikorwa by'ubwishingizi bw'indwara.	The main mission of the Council shall be to supervise health insurance activities.	Le Conseil a pour principale mission de superviser les activités d'assurance maladie.
By'umwihariko, Inama ishinzwe ibi bikurikira:	In particular, the Council shall have the following responsibilities:	En particulier, le Conseil a les attributions suivantes :

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- | | | |
|---|--|---|
| 1° gukurikirana ishyirwa mu bikorwa ry'ubwishingizi bw'indwara; | 1° to monitor the use of health insurance; | 1° surveiller l'utilisation de l'assurance maladie; |
| 2° gukurikirana ubwinshi, umwete mu gutanga ibikorwa by'ubuvuzi hashingiwe ku masezerano; | 2° to monitor the volume and timeliness of healthcare services provided under contracts; | 2° surveiller le volume et la diligence dans la prestation des services de santé fournis en vertu de contrats ; |
| 3° gutanga ibitekerezo ku bijyanye n'uburyo ubwishingizi ku ndwara butangwa; | 3° to provide opinion on the provision of health insurance services; | 3° donner des avis sur l'offre des services d'assurance maladie; |
| 4° gukurikirana uburyo ibikorwa by'ubwishingizi bunoze bitangwa ku banyamuryango cyangwa abishingiwe; | 4° to supervise the quality of insurance services as far as services provided to the affiliates or the insured persons are concerned; | 4° superviser la qualité des services d'assurance maladie en ce qui concerne les services offerts aux affiliés ou aux assurés ; |
| 5° gusaba Minisiteri ifite ubwishingizi mu nshingano guhana umwishingizi, ikigo gitanga ibikorwa by'ubuvuzi cyangwa ikigo gitanga ubuvuzi bitubahirije ibikubiye mu masezerano; | 5° to request the Ministry in charge of insurance to impose sanctions against an insurer, a healthcare services entity or a healthcare entity that violates the terms and conditions of contracts; | 5° demander au Ministère ayant l'assurance dans ses attributions d'imposer des sanctions à un assureur, une entité de soins de santé ou une entité de santé qui viole les conditions énoncées dans les contrats ; |
| 6° gukurikira imikorere y'ibigo bitanga ubwishingizi no gusaba Minisiteri kubifatira ibihano mu gihe bitubahirije amategeko agenga ubwishingizi bw'indwara; | 6° to monitor the functioning of insurance entities and request the Ministry to impose sanctions against them in case of violation of the laws governing health insurance; | 6° faire le suivi du fonctionnement des entités d'assurance et demander au Ministère de prendre des sanctions à leur encontre en cas de violation des lois régissant l'assurance maladie ; |
| 7° gushyiraho ibiciro by'ubuvuzi bitangwa n'abishingizi; | 7° to set prices or tariffs for services provided by insurers; | 7° déterminer les prix ou les tarifs pour les services prestés par les assureurs; |
| 8° kuvuganira ibigo by'ubwishingizi bw'indwara; | 8° to advocate for health insurance entities; | 8° faire le plaidoyer des entités d'assurance maladie ; |

9° kugira inama Minisitiri w'Ubuzima ku bikorwa bijyanye n'ubwishingizi bw'indwara;

10° gukora ubucukumbuzi no kujya inama ku bikorwa cyangwa ku bintu byirengagijwe bikabangamira amasezerano y'ubwishingizi bw'indwara cyangwa izindi ngingo z'amategeko agenga ubwishingizi bw'indwara byakozwe n'ibigo bitanga serivisi z'ubuvuzi, abishingizi, abishingiwe cyangwa undi muntu ufiteye isano n'ibikorwa by'ubwishingizi bw'indwara;

11° gukora ibindi bikorwa bijyanye n'ubwishingizi bw'indwara byashyirwaho n'Iteka rya Minisitiri w'Intebe.

9° to advise the Minister on matters relating to health insurance activities;

10° to conduct thorough analysis and provide advice on the actions or omissions that impede the implementation of health insurance contracts or other legal provisions governing health insurance done by the healthcare entities, insurers, insured or any other person involved in health insurance activities;

11° to perform such other health insurance-related activities as may be determined by a Prime Minister's Order.

9° conseiller le Ministre de la Santé sur les activités d'assurance maladie ;

10° faire des analyses approfondies et donner des conseils sur les actions ou les omissions constituant une entrave à l'application des contrats d'assurance ou d'autres dispositions légales régissant l'assurance maladie, faites par les entités de santé, les assureurs, les assurés ou toute autre personne liée aux activités d'assurance maladie ;

11° réaliser d'autres activités en matière de l'assurance maladie qui pourraient être déterminées par Arrêté du Premier Ministre.

UMUTWE WA VI: INGAMBA KU GUKUMIRA IMIKORERE MIBI MU ITANGWA RY'UBUVUZI

Ingingo ya 28: Kubahiriza urutonde rw'imiti rwemewe

Ubwishingizi bw'indwara bugomba byibura kubahiriza urutonde rw'imiti rwemewe mu rwego rw'Igihugu.

CHAPTER VI: MEASURES TO PREVENT MALPRACTICES IN THE PROVISION OF HEALTHCARE SERVICES

Article 28: Compliance with approved drug list

A health insurance scheme shall at least comply with the National Drug List.

CHAPITRE VI: MESURES DE PREVENTION DE MAUVAISES PRATIQUES DANS LA PRESTATION DES SERVICES DE SANTE

Article 28: Conformité avec la liste des médicaments autorisés

Un régime d'assurance maladie doit au moins se conformer à la liste nationale des médicaments.

Ingingo ya 29: Ubuziranenge mu gutanga ibikorwa by'ubwishingizi

Inama y'Igihugu y'ubwishingizi bw'indwara ikurikirana ko ibigo by'ubuvuzi bishyiraho uburyo bwo gutanga ibikorwa by'ubwishingizi binoze, no kugenzura imikoreshereze y'ikoranabuhanga kugira ngo:

- 1° ibikorwa by'ubuvuzi bitangwa n'ibigo by'ubuvuzi bibe biteye neza kandi byujuje ibisabwa;
- 2° ubuvuzi butangwe kimwe mu gihugu;
- 3° gukoresha ikoranabuhanga mu buvuzi n'ibikoresho by'ikoranabuhanga bibe bijyanye n'ibikenewe koko n'ibisabwa mu buvuzi;
- 4° habeho ubwumvikane hagati y'ibigo by'ubuvuzi n'umwishingizi mu bijyanye n'ibikorwa byo kuvura;
- 5° uburyo bwo kuvura no gutanga imiti bube buhamye, ari ngombwa kandi bwubahiriza ibisabwa mu mwuga wo kuvura n'imwitwarire y'abaganga;
- 6° imiti n'imivurire bibe bihuye n'urutonde rw'imiti rushyirwaho n'Iteka rya Minisitiri ufite ubuzima mu nshingano ze;

Article 29: Quality assurance in the provision of insurance services

The National Health Insurance Council shall ensure that healthcare entities put in place mechanisms that secure quality assurance for insurance services and assess the use of technologies to ensure that:

- 1° the quality of healthcare services provided by healthcare entities are of reasonably good quality and high standard;
- 2° healthcare services are of standards that are uniform throughout the country;
- 3° the use of medical technology and technological equipment are consistent with actual needs and standards of medical practice;
- 4° both the healthcare entities and the insurer agree on healthcare services;
- 5° medical procedures and administration of drugs are appropriate, necessary and comply with accepted medical practice and ethics;
- 6° drugs and medication conform to the National Drug List set by the Ministry in charge of Health;

Article 29: Assurance qualité dans la prestation des services d'assurance

Le Conseil national d'assurance maladie s'assure que les entités de soins de santé mettent en place des mécanismes pour assurer l'assurance qualité des services d'assurance et évaluer l'utilisation des technologies afin de s'assurer que:

- 1° les prestations de soins de santé fournies par les entités de santé sont de qualité et répondent aux normes;
- 2° les services de santé sont conformes aux normes uniformes dans tout le pays;
- 3° l'utilisation de la technologie médicale et les équipements technologiques sont conformes aux besoins réels et aux normes de la pratique médicale;
- 4° les entités de santé et l'assureur sont d'accord sur les prestations de soins de santé;
- 5° les actes médicaux et d'administration de médicaments sont appropriés, nécessaires et conformes aux pratiques médicales acceptées et à l'éthique médicale;
- 6° les médicaments et le traitement sont conformes à la liste des médicaments dressée par le Ministre ayant la santé dans ses attributions;

7° amabwiriza ya Minisitiri ufite ubuzima mu nshingano ze ajyanye n'ubuziranenge mu by'ubuzima yubahirizwe.

7° instructions of the Minister in charge of Health in connection with health standards are followed.

7° les instructions du Ministre ayant la santé dans ses attributions en rapport avec les normes en matière de santé sont respectées.

Ingingo ya 30: Uburyo bwo gukemura impaka mu birebana n'ubwishingizi

Ikigo cy'ubwishingizi kigomba gushyiraho uburyo bwo gukemura impaka, hagati yacyo n'abishingirwa, hagati yacyo n'ibigo by'ubuvuzi ndetse no hagati y'abishingirwa n'ibigo by'ubuvuzi. Iyo izo mpaka zidakemutse, ubifitemo inyungu abigeza ku Nama y'ubwishingizi bw'indwara.

Article 30: Procedure for the settlement of insurance disputes

An insurance entity must put in place a procedure for the settlement of disputes between the entity and the insured, between the entity and healthcare entities and between the insured and healthcare entities. In case of failure to settle such disputes, the interested party shall refer the matter to the Health Insurance Council.

Article 30: Procédure de règlement des litiges liés à l'assurance

Une entité d'assurance maladie doit mettre en place une procédure de règlement des litiges entre lui et les assurés, entre lui et les entités de santé et entre les assurés et les entités de santé. A défaut de résolution de ces litiges, la partie intéressée soumet l'affaire au Conseil d'Assurance Maladie.

UMUTWE WA VII: INGINGO Z'INZIBACYUHO N'IZISOZA

CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS

CHAPITRE VII: DISPOSITIONS TRANSITOIRES ET FINALES

Ingingo ya 31: Igihe gihabwa amashyirahamwe asanzwe akora umurimo w'ubwishingizi

Amashyirahamwe asanzwe akora umurimo w'ubwishingizi bw'indwara ahawe igihe cy'amezi atatu (3) guhera igihe iri tegeko rizatangarizwa kugira ngo abe yujuje ibisabwa mu ngingo ya 13 y'iri tegeko.

Article 31: Time-limit granted to associations already engaged in the insurance activity

Associations already engaged in the health insurance activity shall have a period of three (3) months as from the publication of this Law to meet the requirements provided under Article 13 of this Law.

Article 31: Délai accordé aux associations déjà engagées dans l'activité d'assurance

Les associations déjà engagées dans l'activité d'assurance maladie disposent d'un délai de trois (3) mois à compter de la publication de la présente loi pour remplir les conditions visées à l'article 13 de la présente loi.

Ingingo ya 32: Itegurwa, isuzumwa n'itorwa by'iri tegeko

Iri tegeko ryateguwe mu rurimi rw'Icyongereza, risuzumwa kandi ritorwa mu rurimi rw'Ikinyarwanda.

Article 32: Drafting, consideration and adoption of this Law

This Law was drafted in English, considered and adopted in Kinyarwanda.

Article 32: Initiation, examen et adoption de la présente loi

La présente loi a été initiée en Anglais, examinée et adoptée en Kinyarwanda.

Ingingo ya 33: Ivanwaho ry'ingingo zinyuranyije n'iri tegeko

Ingingo zose z'amategeko abanziriza iri kandi zinyuranyije naryo zivanyweho.

Ingingo ya 34: Igihe iri itegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku muni ryatangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Bikorewe Kigali, kuwa **23/11/2015**

Article 33: Repealing provisions

All prior legal provisions inconsistent with this Law are hereby repealed.

Article 34: Commencement

This Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on **23/11/2015**

Article 33: Disposition abrogatoire

Toutes les dispositions légales antérieures contraires à la présente loi sont abrogées.

Article 34: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le **23/11/2015**

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
KAGAME Paul
President of the Republic

(sé)
KAGAME Paul
Président de la République

(sé)
MUREKEZI Anastase
Minisitiri w'Intebe

(sé)
MUREKEZI Anastase
Prime Minister

(sé)
MUREKEZI Anastase
Premier Ministre

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika:**

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

<p>ITEGEKO N°50/2015 RYO KU WA 14/12/2015 RISHYIRAHO KOMISIYO Y'IGIHUGU YO GUSEZERERA NO GUSUBIZA MU BUZIMA BUSANZWE ABARI ABASIRIKARE (RDRC), RIKANAGENA INSHINGANO, IMITERERE N'IMIKORERE BYAYO</p>	<p>LAW N°50/2015 OF 14/12/2015 ESTABLISHING RWANDA DEMOBILIZATION AND REINTEGRATION COMMISSION (RDRC) AND DETERMINING ITS RESPONSIBILITIES, ORGANISATION AND FUNCTIONING</p>	<p>LOI N°50/2015 DU 14/12/2015 PORTANT CREATION DE LA COMMISSION NATIONALE DE DEMOBILISATION ET DE REINTEGRATION (RDRC) ET DETERMINANT SES ATTRIBUTIONS, ORGANISATION ET FONCTIONNEMENT</p>
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<u>Ingingo ya 23:</u> Abakozi ba RDRC	<u>Article 23:</u> Staff of RDRC	<u>Article 23:</u> Personnel du RDRC
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<u>UMUTWE WA VI:</u> INGINGO Z’INZIBACYUHO N’IZISOZA	<u>CHAPTER VI:</u> TRANSITIONAL AND FINAL PROVISIONS	<u>CHAPITRE VI:</u> DISPOSITIONS TRANSITOIRES ET FINALES

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ITEGEKO N°50/2015 RYO KU WA 14/12/2015 RISHYIRAHO KOMISIYO Y'IGIHUGU YO GUSEZERERA NO GUSUBIZA MU BUZIMA BUSANZWE ABARI ABASIRIKARE (RDRC), RIKANAGENA INSHINGANO, IMITERERE N'IMIKORERE BYAYO	LAW N°50/2015 OF 14/12/2015 ESTABLISHING RWANDA DEMOBILIZATION AND REINTEGRATION COMMISSION (RDRC) AND DETERMINING ITS RESPONSIBILITIES, ORGANISATION AND FUNCTIONING	LOI N°50/2015 DU 14/12/2015 PORTANT CREATION DE LA COMMISSION NATIONALE DE DEMOBILISATION ET DE REINTEGRATION (RDRC) ET DETERMINANT SES ATTRIBUTIONS, ORGANISATION ET FONCTIONNEMENT
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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

INTEKO ISHINGA AMATEGEKO YEMEJE, NONE NATWE DUHAMIJE, DUTANGAJE ITEGEKO RITEYE RITYA KANDI DUTEGETSE KO RYANDIKWA MU IGAZETI YA LETA YA REPUBULIKA Y'U RWANDA

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING LAW AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA

LE PARLEMENT A ADOPTE ET NOUS SANCTIONNONS, PROMULGUONS LA LOI DONT LA TENEUR SUIT ET ORDONNONS QU'ELLE SOIT PUBLIEE AU JOURNAL OFFICIEL DE LA REPUBLIQUE DU RWANDA

INTEKO ISHINGA AMATEGEKO:

THE PARLIAMENT:

LE PARLEMENT:

Umutwe w'Abadepite, mu nama yawo yo ku wa 04 Ugushyingo 2015;

The Chamber of Deputies, in its session of 04 November 2015;

La Chambre des Députés, en sa séance du 04 novembre 2015;

Umutwe wa Sena, mu nama yawo yo ku wa 05 Ugushyingo 2015;

The Senate, in its session of 05 November 2015;

Le Sénat, en sa séance du 05 novembre 2015;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04 Kamena 2003 nk'uko ryavuguruwe kugeza ubu, cyane cyane mu ngingo zaryo, iya 62, iya 66, iya 67, iya 88, iya 89; iya 90, iya 92, iya 93, iya 94, iya 95, iya 108, iya 176, iya 183 n'iya 201;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003, as amended to date, especially in Articles 62, 66, 67, 88, 89, 90, 92, 93, 94, 95, 108, 175, 176, 183 and 201;

Vu la Constitution de la République du Rwanda du 04 juin 2003 telle que révisée à ce jour, spécialement en ses articles 62, 66, 67, 88, 89, 90, 92, 93, 94, 95, 108, 175, 176, 183 et 201;

YEMEJE:

ADOPTS:

ADOPTE:

**UMUTWE WA MBERE: INGINGO
RUSANGE**

CHAPTER ONE: GENERAL PROVISIONS

**CHAPITRE PREMIER: DISPOSITIONS
GENERALES**

Ingingo ya mbere: Icyo iri tegeko rigamije

Article One: Purpose of this Law

Article premier: Objet de la présente loi

Iri tegeko rishyiraho Komisiyo y'Igihugu yo gusezerera no gusubiza mu buzima busanzwe abari abasirikare yitwa "RDRC", mu magambo ahinnye y'Icyongereza, rikanagena inshingano, imiterere n'imikorere byayo.

This Law establishes Rwanda Demobilization and Reintegration Commission, abbreviated as "RDRC" and determines its responsibilities, organization and functioning.

La présente loi porte création de la Commission Nationale de Démobilisation et de Réintégration, "RDRC", en sigle anglais et détermine ses attributions, son organisation et son fonctionnement.

Ingingo ya 2: Ibisobanuro by'amagambo

Article 2: Definitions of terms

Article 2: Définitions des termes

Muri iri tegeko, amagambo akurikira afite ibisobanuro bikurikira:

For the purpose of this Law , the following terms shall have the following meaning:

Aux fins de la présente loi, les termes repris ci-après ont les significations suivantes:

1° **Minisitiri:** Minisitiri ufite Imibereho Myiza mu nshingano ze.

1° **Minister:** Minister in charge of Social Affairs.

1° **Ministre:** Ministre ayant les affaires sociales dans ses attributions;

2° **uwari umusirikare:**

2° **former military member:**

2° **ancien militaire:**

a. uwari mu ngabo z'u Rwanda;

a. a former member of the Rwanda Defence Forces;

a. ancien membre des Forces Rwandaises de Défense;

b. uwari mu ngabo z'Igihugu mbere ya 19 Nyakanga 1994;

b. a former member of the national army before 19 July 1994;

b. ancien membre de l'armée nationale avant le 19 juillet 1994;

c. uwari mu wundi mutwe witwara gisirikare utahutse.

c. a former member of any other armed group who is repatriated.

c. ancien membre de tout autre groupe armé qui est rapatrié.

Ingingo ya 3: Ubuzimagatozi n'ubwigenge

RDRC ifite ubuzimagatozi, ubwigenge n'ubwisanzure mu miyoborere, mu mikorere, mu micungire y'umutungo, imari n'abakozi.

Ingingo ya 4: icyicaro cya RDRC

Icyicaro cya RDRC kiri mu Mujyi wa Kigali, Umurwa Mukuru wa Repubulika y'u Rwanda. Gishobora kwimurirwa ahandi hose muri Repubulika y'u Rwanda igihe cyose bibaye ngombwa.

UMUTWE WA II: URWEGO RUREBERERA RDRC N'AMASEZERANO YEREKEYE GAHUNDA Y'IBIKORWA

Ingingo ya 5: Urwegorureberera RDRC

RDRC irebererwa na Minisitiri ifite imibereho myiza mu nshingano zayo.

Ingingo ya 6: Amasezerano yerekeye gahunda y'ibikorwa

Inama y'Abakomiseri ya RDRC igirana na Minisitiri uyireberera amasezerano yerekeye gahunda y'ibikorwa agaragaza ububasha, uburenganzira n'inshingano bya buri ruhande mu kugeza RDRC ku nshingano zayo.

Ayo masezerano amara igihe gihwanye na manda y'abagize urwego rufata ibyemezo rwa RDRC.

Article 3: Legal personality and autonomy

RDRC shall have a legal personality, administrative and financial autonomy.

Article 4: Head office of RDRC

The Head Office of RDRC shall be located in the City of Kigali, the Capital of the Republic of Rwanda. It may be transferred elsewhere on the Rwandan territory if deemed necessary.

CHAPTER II: SUPERVISING AUTHORITY OF RDRC AND PERFORMANCE CONTRACT

Article 5: Supervising authority of RDRC

RDRC shall be supervised by the Ministry in charge of social affairs.

Article 6: Performance contract

A performance contract shall be concluded between the Council of Commissioners of RDRC and the Minister supervising RDRC indicating powers, rights and responsibilities of each party for RDRC to fulfil its mission.

Such a contract shall be valid for a period equal to the term of office of members of the decision-making organ of RDRC.

Article 3: Personnalité juridique et autonomie

RDRC est doté de la personnalité juridique, de l'autonomie administrative et financière.

Article 4: Siège du RDRC

Le siège du RDRC est établi dans la Ville de Kigali, la Capitale de la République du Rwanda. Il peut, en cas de nécessité, être transféré en tout autre lieu du territoire de la République du Rwanda.

CHAPITRE II : ORGANE DE TUTELLE DU RDRC ET LE CONTRAT DE PERFORMANCE

Article 5: Organe de tutelle du RDRC

RDRC est placée sous la tutelle du Ministère ayant les affaires sociales dans ses attributions.

Article 6: Contrat de performance

Il est conclu entre le Conseil des Commissaires du RDRC et le Ministre de tutelle du RDRC un contrat de performance déterminant les pouvoirs, les droits et les obligations de chaque partie en vue de la réalisation de la mission du RDRC.

Ce contrat est valable pour une durée égale au mandat des membres de l'organe de prise de décisions du RDRC.

UMUTWE WA III: INTEGO N'INSHINGANO ZA RDRC **CHAPTER III: MISSION AND RESPONSIBILITIES OF RDRC** **AND** **CHAPITRE III: MISSION ET ATTRIBUTIONS DU RDRC**

Ingingo ya 7: Intego ya RDRC

RDRC ifite intego rusange yo gufasha uwari umusirikare gusubira mu buzima busanzwe kugira ngo ashobore kwiteza imbere kandi agire uruhare mu iterambere ry'Igihugu muri rusange.

Ingingo ya 8: Inshingano za RDRC

RDRC ifite inshingano zikurikira:

- 1° kwakira no gusubiza mu buzima busanzwe abari mu ngabo z'u Rwanda yahawe n'urwego rubifitiye ububasha ;
- 2° kwakira, gusezerera no gusubiza mu buzima busanzwe abavugwa mu ngingo ya 2 y'iri tegeko mu gace ka 2⁰ b. n'agace ka 2⁰ c. ;
- 3° gukora ubuvugizi ku bigenerwa abari abasirikare bamugariye ku rugamba no gukurikirana ishyirwa mubikorwa ryabyo;
- 4° kugira inama Guverinoma mu byerekeye politiki yo gusezerera abari abasirikare no kubasubiza mu buzima busanzwe;
- 5° guhuza ibikorwa by'inzezo za Guverinoma

Article 7: Mission of RDRC

The overall mission of RDRC is to facilitate the reinsertion and reintegration of the former military member to empower him/her to develop him/herself and contribute to the comprehensive development of the country.

Article 8: Responsibilities of RDRC

RDRC shall have the following responsibilities:

- 1° to receive and carry out social reinsertion and reintegration of former members of Rwanda Defence Forces placed at its disposal by the relevant organ;
- 2° to receive, demobilise and carry out social reinsertion and reintegration of the persons referred to in items 2° b. and 2° c. of Article 2 of this Law;
- 3° to advocate for the initiatives meant for former military members with disability and follow up the implementation of such initiatives;
- 4° to advise the Government on the policy of demobilization, social reinsertion and reintegration of former military members;
- 5° to coordinate the actions of all Government

Article 7: Mission du RDRC

La mission générale du RDRC est de faciliter la réinsertion et la réintégration de l'ancien militaire pour lui permettre de se développer et de participer au développement général du pays.

Article 8: Attributions du RDRC

RDRC a les attributions suivantes:

- 1° accueillir et procéder à la réintégration et à la réinsertion sociales des anciens membres des Forces Rwandaises de Défense mis à sa disposition par l'organe compétent;
- 2° accueillir, démobiliser et procéder à la réintégration et à la réinsertion sociales des personnes visées aux points 2° b. et 2° c. de l'article 2 de la présente loi;
- 3° faire le plaidoyer en faveur des initiatives destinées aux anciens militaires handicapés de guerre et faire le suivi de la mise en œuvre de ces initiatives;
- 4° conseiller le Gouvernement sur la politique de démobilisation, de réinsertion et de réintégration sociales des anciens militaires;
- 5° coordonner les actions de tous les organes

n'abandi bakorana na RDRC mu byerekeye gahunda yo gusezerera abari abasirikare no kubasubiza mu buzima busanzwe;

organs and all stakeholders working with RDRC on matters related to the demobilization and the reinsertion and reintegration of former military members;

gouvernementaux et tous les intervenants qui travaillent avec RDRC sur les questions liées à la démobilisation, la réinsertion et la réintégration des anciens militaires;

6° gukora ibindi bikorwa bya ngombwa kugira ngo igere ku ntego yayo.

6° to carry out such other activities as may be required for the achievement of its mission.

6° exécuter toutes les autres activités nécessaires à la réalisation de sa mission.

UMUTWE WA IV: INZEGO ZIGIZE RDRC N'INSHINGANO ZAZO

CHAPTER IV: ORGANS OF RDRC AND THEIR RESPONSIBILITIES

CHAPITRE IV: ORGANES DU RDRC ET LEURS ATTRIBUTIONS

Ingingo ya 9: Inzego z'ubuyobozi za RDRC

Article 9: Management organs of RDRC

Article 9: Organes de direction du RDRC

RDRC ifite inzego z'ubuyobozi ebyiri (2) zikurikira:

RDRC shall have the following two (2) management organs:

RDRC est doté de deux (2) organes de direction suivants:

- 1° Inama y'Abakomiseri;
- 2° Ubunyamabanga Bukuru.

- 1° the Council of Commissioners;
- 2° the General Secretariat.

- 1° le Conseil des Commissaires;
- 2° le Secrétariat Général.

Imiterere y'inzego z'imirimu za RDRC igenwa n'Iteka rya Minisitiri w'Intebe.

The organizational structure of RDRC shall be determined by a Prime Minister's Order.

L'organigramme du RDRC est déterminé par Arrêté du Premier Ministre.

Icyiciro cya mbere: Inama y'Abakomiseri

Section One: Council of Commissioners

Section première : Conseil des Commissaires

Ingingo ya 10: Ishyirwaho ry'abagize Inama y'Abakomiseri na manda yabo

Article 10: Appointment and term of office of members of the Council of Commissioners

Article 10: Nomination et mandat des membres du Conseil des Commissaires

Inama y'Abakomiseri ni rwo rwego rukuru rwa RDRC. Igizwe n'Abakomiseri batanu (5) bakora ku buryo buhoraho, barimo Perezida na Visi-Perezida. Abakomiseri bagira manda y'imyaka itanu (5) ishobora kongerwa inshuro imwe. Nibura mirongo itatu ku ijana (30%) mu Bakomiseri bagomba kuba ari abagore.

The Council of Commissioners shall be the supreme organ of RDRC. It shall comprise five (5) Commissioners including a Chairperson and a Vice-Chairperson who hold office on a permanent basis. Commissioners shall serve a term of five (5) years renewable once. At least thirty per cent (30%) of the Commissioners must be females.

Le Conseil des Commissaires est l'organe suprême du RDRC. Il est composé de cinq (5) Commissaires, dont le Président et le Vice-Président, exerçant leurs fonctions à titre permanent. Les Commissaires ont un mandat de cinq (5) ans renouvelable une fois. Au moins trente pourcent (30%) des Commissaires doivent être de sexe féminin.

Abagize Inama y'Abakomiseri barimo Perezida na Visi-Perezida bashyirwaho n'Iteka rya Perezida bamaze kwemezwa na Sena.

Members of the Council of Commissioners including the Chairperson and the Deputy Chairperson shall be appointed by a Presidential Order after approval by the Senate.

Les membres du Conseil des Commissaires y compris le Président et le Vice-Président sont nommés par Arrêté Présidentiel après approbation du Sénat.

Ingingo ya 11: Ibyo Umukomiseri agomba kuba yujuje

Article 11: Requirements for being a Commissioner

Article 11: Conditions requises pour être Commissaire

Kugira ngo umuntu abe Umukomiseri agomba kuba yujuje ibi bikurikira:

For a person to be a Commissioner, he/she must fulfil the following requirements:

Pour être Commissaire, il faut remplir les conditions suivantes:

1° kuba ari Umunyarwanda kandi afite ubushobozi n'ubumenyi bimufasha kuzuza inshingano z'ubukomiseri;

1° to be a Rwandan national with adequate skills and knowledge required to discharge the duties of commissioner;

1° être de nationalité rwandaise et avoir des capacités et connaissances suffisantes lui permettant d'exercer les fonctions de commissaire;

2° kuba ari inyangamugayo;

2° to be a person of integrity;

2° être une personne intègre;

3° kuba atarahamwe burundu n'icyaha cya jenocide, icy'ingengabitekerezo yayo n'icy'amacakubiri;

3° not having been definitively convicted of the crime of genocide, genocide ideology and divisionism;

3° n'avoir pas été condamné définitivement pour crime de génocide, d'idéologie du génocide et de divisionnisme;

4° kuba atarakatiwe burundu igihano cy'igifungo kingana cyangwa kirenze amezi atandatu (6) nta subikagihano.

4° not having been definitively sentenced to a penalty exceeding six (6) months without suspension.

4° n'avoir pas été condamné définitivement à une peine d'emprisonnement supérieure ou égale à six (6) mois sans sursis.

Ingingo ya 12: Inshingano z'Inama y'Abakomiseri

Article 12: Responsibilities of the Council of Commissioners

Article 12: Attributions du Conseil des Commissaires

Inama y'Abakomiseri ifite inshingano zikurikira:

The Council of Commissioners shall have the following responsibilities:

Le Conseil des Commissaires a les attributions suivantes:

1° kugena no gukurikirana imirimo ikorerwa mu bigo byakira abahoze ari abasirikare;

1° to determine and follow up activities carried out in former military members transit centres;

1° déterminer et faire le suivi des activités des centres de transit pour les anciens militaires;

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2° gukurikirana ubuzima n'imibereho by'abasubijwe mu buzima busanzwe;	2° to follow up the welfare and living conditions of re-integrated former military members;	2° assurer le suivi des conditions de vie des anciens militaires réintégrés;
3° kwemeza amategeko ngengamikorere ya RDRC;	3° to approve the Internal Rules and Regulations of RDRC;	3° approuver le Règlement d'ordre intérieur du RDRC;
4° kwemeza gahunda y'ibikorwa by'igihe kirekire bya RDRC;	4° to approve the long-term strategic plan of RDRC;	4° adopter le plan stratégique à long terme du RDRC;
5° kwemeza gahunda y'ibikorwa bya buri mwaka bya RDRC;	5° to approve the annual action plan of RDRC;	5° adopter le plan d'action annuel à long terme du RDRC ;
6° kwemeza imbanzirizamushinga w'ingengo y'imari ya RDRC;	6° to approve the draft budget proposal of RDRC;	6° approuver l'avant-projet de budget du RDRC ;
7° kwemeza raporo y'ibikorwa bya RDRC no kuyishyikiriza Minisitiri;	7° to approve the activity report of RDRC and submit it to the Minister;	7° approuver le rapport d'activités du RDRC et le soumettre au Ministre ;
8° gufata ibyemezo ku bindi bibazo byose byinjira mu murongo w'inshingano za RDRC.	8° to take decisions on any other issues under responsibilities of RDRC.	8° prendre des décisions sur toutes les questions relatives aux attributions du RDRC.

Inama y'Abakomiseri yita by'umwihariko ku bari abasirikare bamugariye ku rugamba.

The Council of Commissioners shall particularly care for former military members with disability.

Le Conseil des Commissaires s'occupe particulièrement des anciens militaires handicapés de guerre.

Ingingo ya 13: Ibitabangikanywa no kuba mu bagize Inama y'Abakomiseri

Article 13: Incompatibilities with membership of the Council of Commissioners

Article 13: Incompatibilités avec la fonction de membre du Conseil des Commissaires

Imirimo y'umwe mu bagize Inama y'Abakomiseri ntibangikanywa n'undi murimo uwo ari wo wose uhemberwa.

The duties of a member of the Council of Commissioners shall be incompatible with any other remunerated office.

Les fonctions de membre du Conseil des Commissaires sont incompatibles avec l'exercice de toute autre fonction rémunérée.

Ntibyemewe kandi ku bagize Inama y'Abakomiseri cyangwa ibigo bafitemo

Members of the Council of Commissioners or companies in which they hold shares shall also not be

Il est également interdit aux membres du Conseil des Commissaires ou aux sociétés dont ils sont

imigabane gupiganira amasoko muri RDRC.

allowed to bid for RDRC tenders.

actionnaires de soumissionner aux marchés du RDRC.

Ingingo ya 14: Inshingano za Perezida wa RDRC

Article 14: Responsibilities of the Chairperson of RDRC

Article 14: Attributions du Président du RDRC

Perezida wa RDRC afite inshingano zikurikira:

The Chairperson of RDRC shall have the following responsibilities:

Le Président du RDRC a les attributions suivantes :

1° kuyobora RDRC;

1° to head RDRC;

1° diriger RDRC;

2° guhuza ibikorwa bya RDRC;

2° to coordinate activities of RDRC;

2° coordonner les activités du RDRC;

3° guhagararira RDRC imbere y'amategeko;

3° to serve as the legal representative of RDRC;

3° être le représentant légal du RDRC;

4° gutumiza no kuyobora inama y'Inama y'Abakomiseri ba RDRC;

4° to convene and chair the meetings of the Council of Commissioners of RDRC;

4° convoquer et présider les réunions du Conseil des Commissaires du RDRC;

5° kuba umuvugizi wa RDRC;

5° to be the spokesperson of RDRC;

5° être le porte-parole du RDRC;

6° gushyikiriza inzego zabigenewe raporo za RDRC;

6° to submit reports of RDRC to relevant institutions;

6° soumettre les rapports du RDRC aux organes compétents;

7° gukurikirana ishyirwa mubikorwa ry'ibyemezo by'Inama y'Abakomiseri;

7° to follow up the implementation of the decisions of the Council of Commissioners;

7° faire le suivi de l'exécution des décisions du Conseil des Commissaires ;

8° gukora indi mirimo yose yasabwa n'Inama y'Abakomiseri ijyanye n'inshingano za RDRC.

8° to perform any other duties falling into the responsibilities of RDRC as may be assigned to him/her by the Council of Commissioners.

8° exécuter toutes autres tâches relatives aux attributions du RDRC lui confiées par le Conseil des Commissaires.

Ingingo ya 15: Inshingano za Visi Perezida wa RDRC

Article 15: Responsibilities of the Deputy Chairperson of RDRC

Article 15: Attributions du Vice-président du RDRC

Visi Perezida wa RDRC afite inshingano zikurikira:

The Deputy Chairperson of RDRC shall have the following responsibilities:

Le Vice-Président du RDRC a les attributions suivantes :

- | | | |
|--|---|---|
| 1° kunganira Perezida no kumusimbura igihe cyose adahari; | 1° to assist and deputize for the Chairperson in his/ her absence; | 1° assister le Président dans ses fonctions et le remplacer en cas d'absence ; |
| 2° gukora indi mirimo yose yasabwa n'Inama y'Abakomiseri ijyanye n'inshingano za RDRC. | 2° to perform any other duties falling into the responsibilities of RDRC as may be assigned to him/her by the Council of Commissioners. | 2° exécuter toutes autres tâches relatives aux attributions du RDRC lui confiées par le Conseil des Commissaires. |

Ingingo ya 16: Ibigenerwa Abakomiseri

Imishahara n'ibindi bigenerwa Abakomiseri bigenwa n'Iteka rya Perezida.

Article 16: Benefits allocated to Commissioners

The salary and other benefits to be allocated to the Commissioners shall be determined by a Presidential Order.

Article 16: Avantages accordés aux Commissaires

Le salaire et les autres avantages accordés aux Commissaires sont déterminés par un Arrêté Présidentiel.

Ingingo ya 17: Impamvu zituma uri mu nama y'Abakomiseri ayivamo

Ugize Inama y'Abakomiseri ava kuri uwo mwanya iyo:

Article 17: Reasons for termination of the office of member of the Council of Commissioners

A membership of the Council of Commissioners shall be terminated due to the following reasons:

Article 17: Raisons de cessation des fonctions de membre du Conseil des Commissaires

Un membre du Conseil des Commissaires perd la qualité de membre suite aux raisons suivantes :

- | | | |
|---|---|--|
| 1° manda ye irangiye; | 1° if his/her term of office expires; | 1° si son mandat expire ; |
| 2° yeguye akoresheje inyandiko; | 2° if he/her resigns in writing; | 2° s'il démissionne par écrit ; |
| 3° atagishoboye gukora imirimo ye kubera ubumuga bw'umubiri cyangwa bwo mu mutwe, byemejwe na muganga wemewe na Leta; | 3° if he/she fails to discharge his/her duties due to physical or mental illness certified by an authorized medical doctor; | 3° s'il est incapable de remplir ses fonctions à cause d'une maladie physique ou mentale constatée par un médecin agréé; |
| 4° akatiwe burundu igihano cy'igifungo kingana cyangwa kirengeje amezi atandatu (6) nta subikagihano; | 4° if he/she is definitively sentenced to a term of imprisonment equal to or exceeding six (6) months without suspension; | 4° s'il a été définitivement condamné à une peine d'emprisonnement supérieure ou égale à six (6) mois sans sursis; |
| 5° ahinduriwe imirimo; | 5° if he/she is assigned to other duties; | 5° s'il lui est confié d'autres fonctions; |

- 6° atujuje inshingano ze byemejwe n’Inama y’Abakomiseri; 6° if he/she fails to fulfil his/her responsibilities upon approval by the Council of commissioners; 6° s’il est incapable de remplir ses fonctions après avoir confirmé par le Conseil des Commissaires;
- 7° apfuye. 7° if he/she dies; 7° en cas de décès ;

Ingingo ya 18: Isimburwa ry’umwe mu bagize Inama y’Abakomiseri

Iyo umwe mu bagize Inama y’Abakomiseri atakiri mu mwanya, Inama y’abakomiseri ibimenyeshya mu nyandiko Minisitiri mu gihe kitarenze iminsi cumi n’itanu (15). Minisitiri abimenyeshya urwego rushyiraho Abakomiseri. Ushyizweho arangiza manda y’uwo asimbuye yari asigaje iyo irengeje amezi atandatu (6).

Ingingo ya 19: Uko Inama y’Abakomiseri iterana n’uko ibyemezo bifatwa

Inama y’Abakomiseri iterana nibura iyo habonetse bibiri bya gatatu (2/3) by’abayigize. Ibyemezo byayo bifatwa ku bwumvikane busesuye bw’abayigize. Iyo ubwo bwumvikane butabonetse, ibyemezo bifatwa ku bwiganze burunduye bw’amajwi y’abayigize.

Ingingo ya 20: Itumizwa n’iyoborwa ry’inama y’Inama y’Abakomiseri

Inama y’Inama y’Abakomiseri itumizwa kandi ikayoborwa na Perezida. Iyo Perezida adahari, inama itumizwa kandi ikayoborwa na Visi-Perezida.

Article 18: Replacement of a member of the Council of Commissioners

If one of the members of the Council of Commissioners leaves the office, the Council of Commissioners shall notify in writing the Minister within a period not exceeding fifteen (15) days. The Minister shall inform the appointing authority thereof. The appointee shall serve the remaining period of his/her predecessor if such a period exceeds six (6) months.

Article 19: Modalities for holding meetings of the Council of Commissioners and decision making

The meeting of the Council of Commissioners shall be held if at least two-thirds (2/3) of its members are present. The Council of Commissioners shall take decisions by consensus. If not possible, they shall be taken through an absolute majority vote of members present.

Article 20: Convening and chairing the meeting of the Council of Commissioners

The meeting of the Council of Commissioners shall be convened and chaired by the Chairperson. In case of absence of the Chairperson, the meeting shall be convened and chaired by the Deputy Chairperson.

Article 18: Remplacement d’un membre du Conseil des Commissaires

Si l’un des membres du Conseil des Commissaires cesse ses fonctions, le Conseil des Commissaires en avise le Ministre par écrit dans un délai ne dépassant pas quinze (15) jours. Le Ministre en informe l’autorité de nomination. La personne nommée termine le temps restant à courir du mandat de son prédécesseur si celui-ci dépasse six (6) mois.

Article 19: Modalités de tenue des réunions du Conseil des Commissaires et prise de décisions

La réunion du Conseil des Commissaires doit être tenue si les deux tiers (2/3) de ses membres sont présents. Les décisions du Conseil des Commissaires sont prises par consensus. A défaut de consensus, elles sont prises à la majorité absolue des membres présents à la réunion.

Article 20: Convocation et présidence de la réunion du Conseil des Commissaires

La réunion du Conseil des Commissaires est convoquée et présidée par le Président. En cas d’absence du Président, la réunion est convoquée et présidée par le Vice-président.

Iyo bombi badahari, umukuru mu myaka mu bagize Inama y'Abakomiseri niwe uyitumiza, ariko bakitoramo uyiyo bora.

In case of absence of the Chairperson and Deputy Chairperson, the oldest among Commissioners shall convene the meeting which shall elect from among its members the Chairperson.

En cas d'absence du Président et du Vice-Président, le doyen d'âge des Commissaires convoque la réunion du Conseil des Commissaires qui élit à son sein le Président de la séance.

Icyiciro cya 2: Ubunyamabanga Bukuru

Section 2: General Secretariat

Section 2: Secrétariat Général

Ingingo ya 21: Imiterere y'Ubunyamabanga Bukuru

Article 21: Structure of the General Secretariat

Article 21: Structure du Secrétariat Général

Ubunyamabanga Bukuru bugizwe n'Umunyamabanga Mukuru n'abakozi. Buyoborwa n'Umunyamabanga Mukuru ushyirwaho n'Iteka rya Perezida.

The General Secretariat shall comprise the Secretary General and the staff. It shall be headed by the Secretary General who is appointed by a Presidential Order.

Le Secrétariat Général est composé du Secrétaire Général et du personnel. Il est dirigé par le Secrétaire Général nommé par un Arrêté Présidentiel.

Ingingo ya 22: Inshingano z'Umunyamabanga Mukuru

Article 22: Responsibilities of the Secretary General

Article 22: Attributions du Secrétaire Général

Umunyamabanga Mukuru ashinzwe ibi bikurikira:

The Secretary General shall be responsible for the following:

Le Secrétaire Général a les attributions suivantes:

- 1° kuyobora abakozi b'Ubunyamabanga Bukuru;
- 2° gutegura imbanzirizamushinga y'ingengo y'imari ya RDRC;
- 3° gucunga ingengo y'imari n'umutungo bya RDRC;
- 4° gutegura gahunda na raporo y'ibikorwa bya RDRC;
- 5° kubika inyandiko n'ibitabo bya RDRC;

- 1° to supervise the staff of the General Secretariat;
- 2° to prepare the draft budget proposal of RDRC;
- 3° to manage the budget and the property of RDRC;
- 4° to prepare the action plan and activity report of RDRC;
- 5° to keep the records and documents of RDRC;

- 1° diriger le personnel du Secrétariat Général;
- 2° élaborer l'avant-projet du budget du RDRC ;
- 3° gérer le budget et le patrimoine du RDRC ;
- 4° élaborer le plan d'action et le rapport d'activités du RDRC;
- 5° tenir les archives et la documentation du RDRC;

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- | | | |
|--|---|---|
| 6° gutegura imbanzirizamushinga w'amategeko ngengamikorere ya RDRC; | 6° to prepare the draft proposal of the Internal Rules and Regulations of RDRC; | 6° élaborer l'avant-projet du Règlement d'Ordre Intérieur du RDRC; |
| 7° gutegura inyandiko zikoreshwa mu nama y'Inama y'Abakomiseri; | 7° to prepare documents to be used in the meeting of the Council of Commissioners; | 7° élaborer différents documents devant être utilisés dans la réunion du Conseil des Commissaires ; |
| 8° kuba umwanditsi w'inama y'Inama y'Abakomiseri; | 8° to serve as rapporteur of the meeting of the Council of Commissioners; | 8° être le rapporteur de la réunion du Conseil des Commissaires; |
| 9° gukora imirimo yose yahabwa na Perezida ijyanye n'inshingano za RDRC. | 9° to perform any other duties related to the responsibilities of RDRC as may be assigned to him/her by the Chairperson.. | 9° s'occuper de toutes autres tâches relatives aux attributions du RDRC lui assignées par le Président. |

Ingingo ya 23: Abakozi ba RDRC

Abakozi ba RDRC bagengwa na sitati rusange igenga abakozi ba Leta.

Article 23: Staff of RDRC

The staff of RDRC shall be governed by the General Statutes for Public Service.

Article 23: Personnel du RDRC

Le personnel du RDRC est régi par le Statut général de la Fonction Publique.

Ingingo ya 24: Urwego RDRC ishyikiriza raporo

RDRC ishyikiriza Minisitiri uyireberera raporo y'ibikorwa byayo by'umwaka.

Article 24: Organ to which RDRC submits report

RDRC shall submit its annual activity report to its supervising Minister.

Article 24: Organe auquel RDRC soumet le rapport

RDRC soumet son rapport annuel d'activités à son Ministre de tutelle.

UMUTWE WA V: UMUTUNGO WA RDRC

CHAPTER V: PROPERTY OF RDRC

CHAPITRE V: PATRIMOINE DU RDRC

Ingingo ya 25: Umutungo wa RDRC n'inkomoko yawo

Umutungo wa RDRC ugizwe n'ibintu byimukanwa n'ibitumukanwa. Ukomoka kuri ibi bikurikira:

Article 25: Property of RDRC and its sources

The property of RDRC shall comprise movable and immovable assets. It shall derive from:

Article 25: Patrimoine du RDRC et ses sources

Le patrimoine du RDRC comprend les biens meubles et immeubles. Il provient des sources suivantes :

1° ingengo y'imari igenerwa na Leta;

1° allocations from the State budget;

1° les dotations budgétaires de l'Etat;

2° inkunga zaba iza Leta cyangwa iz'abafatanyabikorwa;

3° inyungu ku mutungo wayo;

4° impano n'indagano.

2° grants and donations from Government or partners;

3° proceeds from its property;

4° donations and bequests.

2° les subventions de l'Etat ou des partenaires;

3° les intérêts produits par son patrimoine ;

4° dons et legs.

Ingingo ya 26: Imicungire, imikoreshereze n'igenzura by'umutungo wa RDRC

Imicungire, imikoreshereze n'igenzura by'umutungo wa RDRC bikorwa hakurikijwe amategeko abigenga.

Ubugenzuzi bushinzwe igenzura rya buri muni ry'imikoreshereze y'umutungo wa RDRC buri kwezi buha raporo Inama y'Abakomiseri.

Ingingo ya 27: Ingengo y'imari

Ingengo y'imari ya RDRC yemezwa kandi igacungwa hakurikijwe amategeko abigenga.

UMUTWE WA VI: INGINGO Z'INZIBACYUHO N'IZISOZA

Ingingo ya 28: Kwegurirwa umutungo n'abakozi

Umutungo n'abakozi ba Leta basanzwe muri Komisiyo y'igihugu yo gusezerera abari abasirikare no kubasubiza mu buzima busanzwe yashyizweho n'Iteka rya Perezida n° 37/01 ryo ku wa 09/04/2002 byeguriwe RDRC.

Article 26: Management, use and audit of the property of RDRC

The management, use and audit of the property of RDRC shall be carried out in accordance with relevant legal provisions.

The internal audit of RDRC shall submit its monthly report to the Council of Commissioners.

Article 27: Budget

The budget of RDRC shall be approved and managed in accordance with relevant legal provisions.

CHAPTER VI: TRANSITIONAL AND FINAL PROVISIONS

Article 28: Transfer of property and staff members

The property and public servants belonging to the Rwanda Demobilization and Reintegration Commission established by the Presidential Order n° 37/01 of 09/04/2002 shall be transferred to RDRC.

Article 26: Gestion, utilisation et audit du patrimoine du RDRC

La gestion, l'utilisation et l'audit du patrimoine du RDRC sont effectués conformément aux dispositions légales en la matière.

Le service d'audit interne du RDRC transmet son rapport mensuel au Conseil des Commissaires.

Article 27: Budget

Le budget du RDRC est adopté et géré conformément aux dispositions légales en la matière.

CHAPITRE VI: DISPOSITIONS TRANSITOIRES ET FINALES

Article 28: Transfert du patrimoine et du personnel

Le patrimoine et les agents de l'Etat appartenant à la Commission Nationale de Démobilisation et de Réintégration créée par Arrêté Présidentiel n° 37/01 du 09/04/2002 sont transférés à RDRC.

Ingingo ya 29: Agaciro k'ibyakozwe

Ibyakozwe byose na Komisiyo y'Igihugu yo gusezerera abari abasirikare no kubasubiza mu buzima busanzwe yashyizweho n'Iteka rya Perezida n° 37/01 ryo ku wa 09/04/2002 mbere yuko iri tegeko ritangazwa mu Igazeti ya Leta ya Repubulika y'u Rwanda bigumana agaciro kabyo.

Ingingo ya 30: Itegurwa, isuzumwa n'itorwa by'iri tegeko

Iri tegeko ryateguwe, risuzumwa kandi ritorwa mu rurimi rw'Ikinyarwanda.

Ingingo ya 31: Ivanwaho ry'ingingo zinyuranyije n'iri tegeko

Ingingo zose z'amategeko abanziriza iri kandi zinyuranyije na ryo zivanyweho.

Ingingo ya 32: Igihe iri itegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 14/12/2015

Article 29: Validity of actions taken

All actions taken by the Rwanda Demobilization and Reintegration Commission established by the Presidential Order n° 37/01 of 09/04/2002 before the publication of this Law in the Official Gazette of the Republic of Rwanda shall remain valid.

Article 30: Drafting, consideration and adoption of this Law

This Law was drafted, considered and adopted in Kinyarwanda.

Article 31: Repealing o provisions

All prior provisions contrary to this Law are hereby repealed.

Article 32: Commencement

This Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 14/12/2015

Article 29: Validité des actes posés

Tous les actes posés par la Commission Nationale de Démobilisation et de Réintégration créée par Arrêté Présidentiel n° 37/01 du 09/04/2002 avant la publication de la présente loi au Journal Officiel de la République du Rwanda restent valables.

Article 30: Initiation, examen et adoption de la présente loi

La présente loi a été initiée, examinée et adoptée en Kinyarwanda.

Article 31: Disposition abrogatoire

Toutes les dispositions légales antérieures contraires à la présente loi sont abrogées.

Article 32: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 14/12/2015

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
KAGAME Paul
President of the Republic

(sé)
KAGAME Paul
Président de la République

(sé)
MUREKEZI Anastase
Minisitiri w'Intebe

(sé)
MUREKEZI Anastase
Prime Minister

(sé)
MUREKEZI Anastase
Premier Ministre

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika:**

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République :

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
BUSINGYE Johnston
Minister of Justice / Attorney General

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEGEKO N°53/2015 RYO KUWA 14/12/2015
RYEMERERA KWEMEZA BURUNDU
AMASEZERANO AVUGURURA
AMASEZERANO YA MARRAKESH
ASHYIRAHU UMURYANGO
MPUZAMAHANGA W'UBUCURUZI
YASHYIRIWEHO UMUKONO I MARRAKESH,
MOROCCO, KU WA 15 MATA 1994, YEMEJWE
BURUNDU KUWA 26 GICURASI 1996, KUGIRA
NGO HONGERWEMO AMASEZERANO
AGAMIJE KOROSHYA UBUCURUZI,
UMUGEREKA WA 1A

LAW N°53/2015 OF 14/12/2015
AUTHORISING THE RATIFICATION OF
THE PROTOCOL AMENDING THE
MARRAKESH AGREEMENT
ESTABLISHING THE WORLD TRADE
ORGANISATION SIGNED IN
MARRAKESH, MOROCCO, ON 15/04/1994
AND RATIFIED ON MAY 26TH, 1996 TO
INSERT THE TRADE FACILITATION
AGREEMENT AS ANNEX 1A

LOI N°53/2015 DU 14/12/2015 AUTORISANT
LA RATIFICATION DU PROTOCOLE
PORTANT AMENDEMENT DE L'ACCORD
DE MARRAKECH INSTITUANT
L'ORGANISATION MONDIALE DU
COMMERCE SIGNE A MARRAKESH,
MAROC, LE 15 AVRIL 1994 ET RATIFIE LE
26 MAI 1996, PAR L'INSERTION DE
L'ACCORD SUR LA FACILITATION DES
ÉCHANGES ANNEXE 1A

ISHAKIRO

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RYEMERERA KWEMEZA BURUNDU
AMASEZERANO AVUGURURA
AMASEZERANO YA MARRAKESH
ASHYIRAHU UMURYANGO
MPUZAMAHANGA W'UBUCURUZI
YASHYIRIWEHO UMUKONO I MARRAKESH
MOROCCO KU WA 15 MATA 1994, YEMEJWE
BURUNDU KUWA 26 GICURASI 1996, KUGIRA
NGO HONGERWEMO AMASEZERANO
AGAMIJE KOROSHYA UBUCURUZI,
UMUGEREKA WA 1A**

**LAW N°53/2015 OF 14/12/2015
AUTHORISING THE RATIFICATION OF
THE PROTOCOL AMENDING THE
MARRAKESH AGREEMENT
ESTABLISHING THE WORLD TRADE
ORGANISATION SIGNED IN
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**LOI N°53/2015 DU 14/12/2015 AUTORISANT
LA RATIFICATION D'UN PROTOCOLE
PORTANT AMENDEMENT DE L'ACCORD
DE MARRAKESH INSTITUANT
L'ORGANISATION MONDIALE DU
COMMERCE SIGNE A MARRAKESH,
MAROC, LE 15 AVRIL 1994 ET RATIFIE LE
26 MAI 1996 PAR L'INSERTION DE
L'ACCORD SUR LA FACILITATION DES
ECHANGES ANNEXE 1A**

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

**INTEKO ISHINGA AMATEGEKO YEMEJE,
NONE NATWE DUHAMIJE, DUTANGAJE
ITEGEKO RITEYE RITYA KANDI
DUTEGETSE KO RYANDIKWA MU IGAZETI
YA LETA YA REPUBULIKA Y'U RWANDA**

**THE PARLIAMENT HAS ADOPTED AND
WE SANCTION, PROMULGATE THE
FOLLOWING LAW AND ORDER IT BE
PUBLISHED IN THE OFFICIAL GAZETTE
OF THE REPUBLIC OF RWANDA**

**LE PARLEMENT A ADOPTE ET NOUS
SANCTIONNONS, PROMULGUONS LA LOI
DONT LA TENEUR SUIT ET ORDONNONS
QU'ELLE SOIT PUBLIEE AU JOURNAL
OFFICIEL DE LA REPUBLIQUE DU
RWANDA**

INTEKO ISHINGA AMATEGEKO:

THE PARLIAMENT:

LE PARLEMENT:

Umutwe w'Abadepite, mu nama yawo yo kuwa 2
Ukuboza 2015.;

The Chamber of Deputies, in its session of 2
December 2015;

La Chambre des Députés, en sa séance du 2
décembre 2015;

Umutwe wa Sena, mu nama yawo yo kuwa 4
Ukuboza 2015;

The Senate, in its session of 4 December 2015;

Le Sénat, en sa séance du 4 décembre 2015 ;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u
Rwanda ryo kuwa 4 Kamena 2003, nk'uko

Pursuant to the Constitution of the Republic of
Rwanda of 04 June 2003, as amended to date,

Vu la Constitution de la République du Rwanda
du 04 juin 2003, telle que révisée à ce jour,

Official Gazette n° 04 of 25/01/2016

ryavuguruwe kugeza ubu, cyane cyane mu ngingo zaryo iya 62, iya 66, iya 88, iya 89, iya 90, iya 92, iya 93, iya 94, iya 95, iya 108, iya 189, iya 190 n'iya 201

Ishingiye ku Itegeko ryo ku wa 26 Gicurasi 1996 ryemerera u Rwanda kwinjira mu Muryango Mpuzamahanga w'Ubucuruzi (WTO);

Imaze gusuzuma amasezerano yo koroshya ubucuruzi ashingiye ku masezerano mpuzamahanga yashyiriweho umukono i Marrakesh, Moroko ku wa 15/04/1994 akemezwa burundu ku wa 26 Gicurasi, 1996;

YEMEJE:

Ingingo ya mbere: Uruhushya rwo kwemeza burundu

U Rwanda rwinjiye mu Muryango Mpuzamahanga w'Ubucuruzi (WTO) ku wa 26 Gicurasi 1996, Inama Nkuru y'Umuryango Mpuzamahanga w'Ubucuruzi yateranye ku wa 27 Ugushyingo 2014 yemeje Protocole ivugurura Amasezerano ya Marrakesh ashiraho Umuryango Mpuzamahanga w'Ubucuruzi yashyiriweho umukono i Marrakesh, Morocco, ku wa 15 Mata 1994 kugira ngo hongerwemo Amasezerano agamije koroshya ubucuruzi, umugereka wa 1A, ari ku mugereka, yemerewe kwemezwa burundu.

especially in its articles 62, 66, 88, 89, 90, 92, 93, 94, 95, 108, 189, 190 and 201;

Pursuant to Law of 26 May 1996 on accession of Rwanda to the World Trade Organisation (WTO);

After consideration of Trade Facilitation Agreement based on World Trade Organisation Treaty signed at Marrakesh Morocco on 15/14/1994 and ratified on May 26, 1996;

ADOPTS:

Article One: Authorisation of ratification

Rwanda accessed to the World Trade Organisation (WTO) on 26 May 1996, the General Council of World Trade Organisation of 27 November 2014 adopted the Protocol amending the Marrakesh Agreement establishing the World Trade Organisation signed in Marrakesh, Morocco, on 15/04/1994 to insert the Trade Facilitation Agreement as Annex 1A, in appendix, is hereby authorised for ratification.

spécialement en ses articles 62, 66, 88, 89, 90, 92, 93, 94, 95, 108, 189, 190 et 201 ;

Vu la Loi du 26 Mai 1996 sur l'adhésion de la République du Rwanda à l'Organisation Mondiale du Commerce (OMC) ;

Après examen de l'Accord sur la Facilitation des Echanges basé sur le Traité de l'Organisation Mondiale du Commerce signé à Marrakesh, Maroc le 15/04/1994 et ratifié le 26 Mai 1996;

ADOPTÉ:

Article premier: Autorisation de ratification

Le Rwanda a adhéré à l'Organisation Mondiale du Commerce (OMC) le 26 Mai 1996, et le Conseil Général de l'Organisation Mondiale du Commerce du 27 Novembre 2014 a adopté le Protocole portant amendement de l'Accord de Marrakech instituant l'Organisation Mondiale du Commerce signé à Marrakesh, Maroc, le 15 avril 1994 par l'insertion de l'accord sur la facilitation des échanges annexe 1A, en annexe, est autorisé à être ratifié.

Ingingo ya 2 : Itegurwa, isuzumwa n’itorwa by’iri tegeko

Iri tegeko ryateguwe mu rurimi rw’Icyongereza risuzumwa kandi ritorwa mu rurimi rw’Ikinyarwanda.

Ingingo ya 3 : Igihe iri tegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y’u Rwanda.

Kigali, kuwa **14/12/2015**

Article 2 : Drafting, consideration and adoption of this Law

This law was drafted in English, considered and adopted in Kinyarwanda.

Article 3 : Commencement

This law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on **14/12/2015**

Article 2 : Initiation, examen et adoption de la présente loi

La présente loi a été initiée en Anglais, examinée et adoptée en Kinyarwanda.

Article 3 : Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le **14/12/2015**

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
KAGAME Paul
President of the Republic

(sé)
KAGAME Paul
Président de la République

(sé)
MUREKEZI Anastase
Minisitiri w'Intebe

(sé)
MUREKEZI Anastase
Prime Minister

(sé)
MUREKEZI Anastase
Premier Ministre

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika:**

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République :

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
BUSINGYE Johnston
Minister of Justice /Attorney General

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux



**Ministerial Conference
Ninth Session
Bali, 3-6 December 2013**

AGREEMENT ON TRADE FACILITATION

MINISTERIAL DECISION OF 7 DECEMBER 2013

The Ministerial Conference,

Having regard to paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement");

Decides as follows:

1. We hereby conclude the negotiation of an Agreement on Trade Facilitation (the "Agreement"), which is annexed hereto, subject to legal review for rectifications of a purely formal character that do not affect the substance of the Agreement.
2. We hereby establish a Preparatory Committee on Trade Facilitation (the "Preparatory Committee") under the General Council, open to all Members, to perform such functions as may be necessary to ensure the expeditious entry into force of the Agreement and to prepare for the efficient operation of the Agreement upon its entry into force. In particular, the Preparatory Committee shall conduct the legal review of the Agreement referred to in paragraph 1 above, receive notifications of Category A commitments, and draw up a Protocol of Amendment (the "Protocol") to insert the Agreement into Annex 1A of the WTO Agreement.
3. The General Council shall meet no later than 31 July 2014 to annex to the Agreement notifications of Category A commitments, to adopt the Protocol drawn up by the Preparatory Committee, and to open the Protocol for acceptance until 31 July 2015. The Protocol shall enter into force in accordance with Article X:3 of the WTO Agreement.

ANNEX**AGREEMENT ON TRADE FACILITATION****Preamble**

Members,

Having regard to the Doha Round of Multilateral Trade Negotiations;

Recalling and reaffirming the mandate and principles contained in paragraph 27 of the Doha Ministerial Declaration and Annex D of the Decision of the Doha Work Programme adopted by the General Council on 1 August 2004, as well as paragraph 33 and Annex E of the Hong Kong Ministerial Declaration;

Desiring to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit;

Recognizing the particular needs of developing and especially least-developed country Members and desiring to enhance assistance and support for capacity building in this area;

Recognizing the need for effective cooperation among Members on trade facilitation and customs compliance issues:

Hereby *agree* as follows:

SECTION I**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 or for 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 to the extent possible and as appropriate, the following through the internet:

- a. A description¹ of its importation, exportation and transit procedures, including appeal procedures, that informs governments, 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 relevant trade-related legislation 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 regional integration may establish or maintain common enquiry points at the regional level to satisfy the requirement of paragraph 3.1 for common procedures.

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

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.

4 Notification

4.1. Each Member shall notify the Committee of:

- a. The official place(s) where the items in subparagraphs 1.1 a. to j. have been published; and
- b. The URLs of website(s) referred to in paragraph 2.1, as well as the contact information of the enquiry points referred to in paragraph 3.1.

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE AND CONSULTATION

1 Opportunity to Comment and Information before Entry into Force

1.1. Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release and clearance of goods, including goods in transit.

¹ Each Member has the discretion to state on its website the legal limitations of this description.

1.2. Each Member shall, to the extent practicable, and in a manner consistent with its domestic law and legal system, ensure that new or amended laws and regulations of general application related to the movement, release and clearance of goods, including goods in transit are published, or information on them made otherwise publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.

1.3. Changes to duty rates or tariff rates, as well as measures that have a relieving effect or whose effectiveness would be undermined by prior publication, measures applied in urgent circumstances, or minor changes to domestic law and legal system are excluded from paragraphs 1.1 and 1.2 above.

2 Consultations

Each Member shall, as appropriate, provide for regular consultations between border agencies and traders or other stakeholders within its territory.

ARTICLE 3: ADVANCE RULINGS

1. Each Member shall issue an advance ruling in a reasonable, time bound manner to an applicant that has submitted a written request containing all necessary information. If a Member declines to issue an advance ruling it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

2. A Member may decline to issue an advance ruling to an applicant where the question raised in the application:

- a. is already pending in the applicant's case before any governmental agency, appellate tribunal or court; or
- b. has already been decided by any appellate tribunal or court.

3. The advance ruling shall be valid for a reasonable period of time after its issuance unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Where the Member revokes, modifies or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Member revokes, modifies or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false or misleading information.

5. An advance ruling issued by a Member shall be binding on that Member in respect of the applicant that sought it. The Member may provide that the advance ruling be binding on the applicant.

6. Each Member shall publish, at a minimum:

- a. the requirements for the application for an advance ruling, including the information to be provided and the format;
- b. the time period by which it will issue an advance ruling; and
- c. the length of time for which the advance ruling is valid.

7. Each Member shall provide, upon written request of an applicant, a review of the advance ruling or the decision to revoke, modify or invalidate the advance ruling.²

8. Each Member shall endeavour to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

² Under this paragraph: a) a review may, before or after the ruling has been acted upon, be provided by the official, office or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and b) a Member is not required to provide the applicant with recourse to Article 4.1.1 of this Agreement.

9. Definitions and scope:

- a. An advance ruling is a written decision provided by a Member to an applicant prior to the importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:
 - i. the good's tariff classification, and
 - ii. the origin of the good;³
- b. In addition to the advance rulings defined in subparagraph 3.9 a., Members are encouraged to provide advance rulings on:
 - i. the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts;
 - ii. the applicability of the Member's requirements for relief or exemption from customs duties;
 - iii. the application of the Member's requirements for quotas, including tariff quotas; and
 - iv. any additional matters for which a Member considers it appropriate to issue an advance ruling.
- c. An applicant is an exporter, importer or any person with a justifiable cause or a representative thereof.
- d. A Member may require that an applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

ARTICLE 4: APPEAL OR REVIEW PROCEDURES

1 Right to Appeal or Review

1.1. Each Member shall provide that any person to whom customs issues an administrative decision⁴ has the right, within its territory to:

- a. administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;
and/or
- b. judicial appeal or review of the decision.

1.2. The legislation of each Member may require administrative appeal or review to be initiated prior to judicial appeal or review.

1.3. Members shall ensure that their appeal or review procedures are carried out in a non-discriminatory manner.

³ It is understood that an advance ruling on the origin of a good may be an assessment of origin for the purposes of the Agreement on Rules of Origin where the ruling meets the requirements of this Agreement and the Agreement on the Rules of Origin. Likewise, an assessment of origin under the Agreement on Rules of Origin may be an advance ruling on the origin of a good for the purposes of this Agreement where the ruling meets the requirements of both agreements. Members are not required to establish separate arrangements under this provision in addition to those established pursuant to the Rules of Origin Agreement in relation to the assessment of origin provided that the requirements of this Article are fulfilled.

⁴ An administrative decision in this Article means a decision with a legal effect that affects rights and obligations of a specific person in an individual case. It shall be understood that an administrative decision in this Article covers an administrative action within the meaning of Article X of the GATT 1994 or failure to take an administrative action or decision as provided for in a Member's domestic law and legal system. For addressing such failure, Members may maintain an alternative administrative mechanism or judicial recourse to direct the customs authority to promptly issue an administrative decision in place of the right to appeal or review under subparagraph 1.1 a.

1.4. Each Member shall ensure that, in a case where the decision on appeal or review under subparagraph 1.1 a. is not given either i. within set periods as specified in its laws or regulations or ii. without undue delay, the petitioner has the right to either further appeal to or further review by the administrative authority or the judicial authority or any other recourse to the judicial authority.⁵

1.5. Each Member shall ensure that the person referred to in paragraph 1.1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to appeal or review procedures where necessary.

1.6. Each Member is encouraged to make the provisions of this Article applicable to an administrative decision issued by a relevant border agency other than customs.

ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY

1 Notifications for enhanced controls or inspections

Where a Member adopts or maintains a system of issuing notifications or guidance to its concerned authorities for enhancing the level of controls or inspections at the border in respect of foods, beverages or feedstuffs covered under the notification or guidance for protecting human, animal, or plant life or health within its territory, the following disciplines shall apply to the manner of their issuance, termination or suspension:

- a. each Member may, as appropriate, issue the notification or guidance based on risk.
- b. each Member may issue the notification or guidance so that it applies uniformly only to those points of entry where the sanitary and phytosanitary conditions on which the notification or guidance are based apply.
- c. each Member shall promptly terminate or suspend the notification or guidance when circumstances giving rise to it no longer exist, or if changed circumstances can be addressed in a less trade restrictive manner.
- d. when a Member decides to terminate or suspend the notification or guidance, it shall, as appropriate, promptly publish the announcement of its termination or suspension in a non-discriminatory and easily accessible manner, or inform the exporting Member or the importer.

2 Detention

A Member shall inform the carrier or importer promptly in case of detention of goods declared for importation, for inspection by Customs or any other competent authority.

3 Test Procedures

3.1. A Member may, upon request, grant an opportunity for a second test in case the first test result of a sample taken upon arrival of goods declared for importation shows an adverse finding.

3.2. A Member shall either publish, in a non-discriminatory and easily accessible manner, the name and address of any laboratory where the test can be carried out or provide this information to the importer when it is granted the opportunity under paragraph 3.1.

3.3. A Member shall consider the result of the second test in the release and clearance of goods, and, if appropriate, may accept the results of such test.

⁵ Nothing in this paragraph shall prevent Members from recognizing administrative silence on appeal or review as a decision in favour of the petitioner in accordance with its laws and regulations.

ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION**1 General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation**

1.1. The provisions of paragraph 6.1 shall apply to all fees and charges other than import and export duties and other than taxes within the purview of Article III of GATT 1994 imposed by Members on or in connection with importation or exportation of goods.

1.2. Information on fees and charges shall be published in accordance with Article 1 of this Agreement. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.

1.3. An adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.

1.4. Each Member shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

2 Specific disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation

2.1. Fees and charges for customs processing:

- i. shall be limited in amount to the approximate cost of the services rendered on or in connection with the specific import or export operation in question; and
- ii. are not required to be linked to a specific import or export operation provided they are levied for services that are closely connected to the customs processing of goods.

3 Penalty Disciplines

3.1. For the purpose of Article 6.3, the term "penalties" shall mean those imposed by a Member's customs administration for a breach of the Member's customs law, regulation, or procedural requirement.

3.2. Each Member shall ensure that penalties for a breach of a customs law, regulation, or procedural requirement are imposed only on the person(s) responsible for the breach under its laws.

3.3. The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.

3.4. Each Member shall ensure that it maintains measures to avoid:

- i. conflicts of interest in the assessment and collection of penalties and duties; and
- ii. creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 3.3.

3.5. Each Member shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

3.6. When a person voluntarily discloses to a Member's customs administration the circumstances of a breach of a customs law, regulation, or procedural requirement prior to the discovery of the breach by the customs administration, the Member is encouraged to, where appropriate, consider this fact as a potential mitigating factor when establishing a penalty for that person.

3.7. The provisions of this paragraph shall apply to the penalties on traffic in transit referred to in paragraph 3.1.

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

1 Pre-arrival Processing

1.1. Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

1.2. Members shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

2 Electronic Payment

Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees and charges collected by customs incurred upon importation and exportation.

3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges

3.1. Each Member shall adopt or maintain procedures allowing the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

3.2. As a condition for such release, a Member may require:

- a. payment of customs duties, taxes, fees and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations; or
- b. a guarantee in the form of a surety, a deposit or other appropriate instrument provided for in its laws and regulations.

3.3. Such guarantee shall not be greater than the amount the Member requires to ensure payment of customs duties, taxes, fees and charges ultimately due for the goods covered by the guarantee.

3.4. In cases where an offence requiring imposition of monetary penalties or fines has been detected, a guarantee may be required for the penalties and fines that may be imposed.

3.5. The guarantee as set out in paragraphs 3.2 and 3.4 shall be discharged when it is no longer required.

3.6. Nothing in these provisions shall affect the right of a Member to examine, detain, seize or confiscate or deal with the goods in any manner not otherwise inconsistent with the Member's WTO rights and obligations.

4 Risk Management

4.1. Each Member shall, to the extent possible, adopt or maintain a risk management system for customs control.

4.2. Each Member shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

4.3. Each Member shall concentrate customs control and, to the extent possible other relevant border controls, on high risk consignments and expedite the release of low risk consignments.

Each Member may also select, on a random basis, consignments for such controls as part of its risk management.

4.4. Each Member shall base risk management on assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, *inter alia*, HS code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

5 Post-clearance Audit

5.1. With a view to expediting the release of goods, each Member shall adopt or maintain post-clearance audit to ensure compliance with customs and other related laws and regulations.

5.2. Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct post-clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations and the reasons for the results.

5.3. Members acknowledge that the information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

5.4. Members shall, wherever practicable, use the result of post-clearance audit in applying risk management.

6 Establishment and Publication of Average Release Times

6.1. Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, *inter alia*, the WCO Time Release Study.⁶

6.2. Members are encouraged to share with the Committee their experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency.

7 Trade Facilitation Measures for Authorized Operators

7.1. Each Member shall provide additional trade facilitation measures related to import, export or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such facilitation measures through customs procedures generally available to all operators and not be required to establish a separate scheme.

7.2. The specified criteria shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures. The specified criteria, which shall be published, may include:

- a. an appropriate record of compliance with customs and other related laws and regulations;
- b. a system of managing records to allow for necessary internal controls;
- c. financial solvency, including, where appropriate, provision of a sufficient security/guarantee; and
- d. supply chain security.

⁶ Each Member may determine the scope and methodology of such average release time measurement in accordance with its needs and capacity.

The specified criteria to qualify as an operator shall not:

- a. be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and
- b. to the extent possible, restrict the participation of small and medium-sized enterprises.

7.3. The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least 3 of the following measures:⁷

- a. low documentary and data requirements as appropriate;
- b. low rate of physical inspections and examinations as appropriate;
- c. rapid release time as appropriate;
- d. deferred payment of duties, taxes, fees and charges;
- e. use of comprehensive guarantees or reduced guarantees;
- f. a single customs declaration for all imports or exports in a given period; and
- g. clearance of goods at the premises of the authorized operator or another place authorized by customs.

7.4. Members are encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfillment of the legitimate objectives pursued.

7.5. In order to enhance the facilitation measures provided to operators, Members shall afford to other Members the possibility to negotiate mutual recognition of authorized operator schemes.

7.6. Members shall exchange relevant information within the Committee about authorized operator schemes in force.

8 Expedited Shipments

8.1. Each Member shall adopt or maintain procedures allowing for expedited release of at least those goods entered through air cargo facilities to persons that apply for such treatment, while maintaining customs control.⁸ If a Member employs criteria⁹ limiting who may apply, the Member may, in published criteria, require that the applicant shall, as conditions for qualifying for the application of the treatment described in paragraphs 8.2 a. – d. to its expedited shipments:

- a. provide adequate infrastructure and payment of customs expenses related to processing of expedited shipments, in cases where the applicant fulfills the Member's requirements for such processing to be performed at a dedicated facility;
- b. submit in advance of the arrival of an expedited shipment the information necessary for release;
- c. be assessed fees limited in amount to the approximate cost of services rendered in providing the treatment described in paragraph 8.2 a. – d.;
- d. maintain a high degree of control over expedited shipments through the use of internal security, logistics, and tracking technology from pick-up to delivery;
- e. provide expedited shipment from pick-up to delivery;
- f. assume liability for payment of all customs duties, taxes, and fees and charges to the customs authority for the goods;
- g. have a good record of compliance with customs and other related laws and regulations;

⁷ A measure listed in sub-paragraphs a.-g. will be deemed to be provided to authorized operators if it is generally available to all operators.

⁸ In cases where a Member has an existing procedure that provides the treatment in paragraph 8.2, this provision would not require that Member to introduce separate expedited release procedures.

⁹ Such application criteria, if any, shall be in addition to the Member's requirements for operating with respect to all goods or shipments entered through air cargo facilities.

- h. comply with other conditions directly related to the effective enforcement of the Member's laws, regulations and procedural requirements, that specifically relate to providing the treatment described in paragraph 8.2.

8.2. Subject to paragraphs 8.1 and 8.3, Members shall:

- a. minimize the documentation required for the release of expedited shipments in accordance with Article 10.1, and to the extent possible, provide for release based on a single submission of information on certain shipments;
- b. provide for expedited shipments to be released under normal circumstances as rapidly as possible after arrival, provided the information required for release has been submitted;
- c. endeavour to apply the treatment in sub-paragraphs 8.2 a. and b. to shipments of any weight or value recognizing that a Member is permitted to require additional entry procedures, including declarations and supporting documentation and payment of duties and taxes, and to limit such treatment based on the type of good, provided the treatment is not limited to low value goods, such as documents; and
- d. provide, to the extent possible, for a *de minimis* shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994 are not subject to this provision.

8.3. Nothing in paragraphs 8.1 and 8.2 shall affect the right of a Member to examine, detain, seize, confiscate or refuse entry to goods, or to carry out post-clearance audits, including in connection with the use of risk management systems. Further, nothing in paragraphs 8.1 and 8.2 shall prevent a Member from requiring, as a condition for release, the submission of additional information and the fulfillment of non-automatic licensing requirements.

9 Perishable Goods¹⁰

9.1. With a view to preventing avoidable loss or deterioration of perishable goods, and provided all regulatory requirements have been met, each Member shall:

- a. provide for the release of perishable goods under normal circumstances within the shortest possible time; and
- b. provide for the release of perishable goods, in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.

9.2. Each Member shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

9.3. Each Member shall either arrange, or allow an importer to arrange, for the proper storage of perishable goods pending their release. The Member may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Member shall, where practicable and consistent with domestic legislation, upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

9.4. In cases of significant delay in the release of perishable goods, and upon written request, the importing Member shall, to the extent practicable, provide a communication on the reasons for the delay.

¹⁰ For the purposes of this provision, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

ARTICLE 8: BORDER AGENCY COOPERATION

1. A Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.

2. Members shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom they share a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:

- i. alignment of working days and hours;
- ii. alignment of procedures and formalities;
- iii. development and sharing of common facilities;
- iv. joint controls;
- v. establishment of one stop border post control.

ARTICLE 9: MOVEMENT OF GOODS UNDER CUSTOMS CONTROL INTENDED FOR IMPORT

Each Member shall, to the extent practicable, and provided all regulatory requirements are met, allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT**1 Formalities and Documentation Requirements**

1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and of decreasing and simplifying import, export and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information and business practices, availability of techniques and technology, international best practices and inputs from interested parties, each Member shall review such formalities and documentation requirements, and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements:

- a. are adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;
- b. are adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;
- c. are the least trade restrictive measure chosen, where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and
- d. are not maintained, including parts thereof, if no longer required.

1.2. The Committee shall develop procedures for sharing relevant information and best practices as appropriate.

2 Acceptance of Copies

2.1. Each Member shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for import, export or transit formalities.

2.2. Where a government agency of a Member already holds the original of such a document, any other agency of that Member shall accept a paper or electronic copy, where applicable, from the agency holding the original in lieu of the original document.

2.3. A Member shall not require an original or copy of export declarations submitted to the customs authorities of the exporting Member as a requirement for importation.¹¹

3 Use of International Standards

3.1. Members are encouraged to use relevant international standards or parts thereof as a basis for their importation, exportation or transit formalities and procedures except as otherwise provided for in this Agreement.

3.2. Members are encouraged to take part, within the limits of their resources, in the preparation and periodic review of relevant international standards by appropriate international organizations.

3.3. The Committee shall develop procedures for the sharing by Members of relevant information, and best practices, on the implementation of international standards, as appropriate. The Committee may also invite relevant international organizations to discuss their work on international standards. As appropriate, the Committee may identify specific standards that are of particular value to Members.

4 Single Window

4.1. Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

4.2. In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

4.3. Members shall notify to the Committee the details of operation of the single window.

4.4. Members shall, to the extent possible and practical, use information technology to support the single window.

5 Pre-shipment Inspection

5.1. Members shall not require the use of pre-shipment inspections in relation to tariff classification and customs valuation.

5.2. Without prejudice to the rights of Members to use other types of pre-shipment inspection not covered by paragraph 5.1, Members are encouraged not to introduce or apply new requirements regarding their use.¹²

6 Use of Customs Brokers

6.1. Without prejudice to the important policy concerns of some Members that currently maintain a special role for customs brokers, from the entry into force of this agreement Members shall not introduce the mandatory use of customs brokers.

6.2. Each Member shall notify and publish its measures on the use of customs brokers. Any subsequent modifications thereof shall be notified to the Committee and published promptly.

6.3. With regard to the licensing of customs brokers, Members shall apply rules that are transparent and objective.

¹¹ Nothing in this paragraph precludes a Member from requiring documents such as certificates, permits or licenses as a requirement for the importation of controlled or regulated goods.

¹² This sub-paragraph refers to pre-shipment inspections covered by the Pre-shipment Inspection Agreement, and does not preclude pre-shipment inspections for SPS purposes.

7 Common Border Procedures and Uniform Documentation Requirements

7.1. Each Member shall, subject to paragraph 7.2, apply common customs procedures and uniform documentation requirements for release and clearance of goods throughout its territory.

7.2. Nothing in this Article shall prevent a Member from:

- a. differentiating its procedures and documentation requirements based on the nature and type of goods, or their means of transport;
- b. differentiating its procedures and documentation requirements for goods based on risk management;
- c. differentiating its procedures and documentation requirements to provide total or partial exemption from import duties or taxes;
- d. applying electronic filing or processing; or
- e. differentiating its procedures and documentation requirements in a manner consistent with the Agreement on Sanitary and Phytosanitary Measures.

8 Rejected Goods

8.1. Where goods presented for import are rejected by the competent authority of a Member on account of their failure to meet prescribed sanitary or phytosanitary regulations or technical regulations, the Member shall, subject to and consistent with its laws and regulations, allow the importer to re-consign or to return the rejected goods to the exporter or another person designated by the exporter.

When such an option is given and the importer fails to exercise it within a reasonable period of time, the competent authority may take a different course of action to deal with such non-compliant goods.

9 Temporary Admission of Goods/Inward and Outward Processing

a. Temporary Admission of Goods

Each Member shall allow, as provided for in its laws and regulations, goods to be brought into a customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into a customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

b. Inward and Outward Processing

- i. Each Member shall allow, as provided for in its laws and regulations, inward and outward processing of goods. Goods allowed for outward processing may be re-imported with total or partial exemption from import duties and taxes in accordance with the Member's laws and regulations in force.
- ii. For the purposes of this Article, the term "inward processing" means the Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved totally or partially from payment of import duties and taxes, or eligible for duty drawback, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation.
- iii. For the purposes of this Article, the term "outward processing" means the Customs procedure under which goods which are in free circulation in a Customs territory may be temporarily exported for manufacturing, processing or repair abroad and then reimported.

ARTICLE 11: FREEDOM OF TRANSIT

1. Any regulations or formalities in connection with traffic in transit imposed by a Member shall not:
 - a. be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a reasonably available less trade restrictive manner,
 - b. be applied in a manner that would constitute a disguised restriction on traffic in transit.
2. Traffic in transit shall not be conditioned upon collection of any fees or charges imposed in respect of transit, except the charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.
3. Members shall not seek, take or maintain any voluntary restraints or any other similar measures on traffic in transit. This is without prejudice to existing and future national regulations, bilateral or multilateral arrangements related to regulating transport consistent with WTO rules.
4. Each Member shall accord to products which will be in transit through the territory of any other Member treatment no less favourable than that which would be accorded to such products if they were being transported from their place of origin to their destination without going through the territory of such other Member.
5. Members are encouraged to make available, where practicable, physically separate infrastructure (such as lanes, berths and similar) for traffic in transit.
6. Formalities, documentation requirements and customs controls, in connection with traffic in transit, shall not be more burdensome than necessary to:
 - a. identify the goods; and
 - b. ensure fulfillment of transit requirements.
7. Once goods have been put under a transit procedure and have been authorized to proceed from the point of origination in a Member's territory, they will not be subject to any customs charges nor unnecessary delays or restrictions until they conclude their transit at the point of destination within the Member's territory.
8. Members shall not apply technical regulations and conformity assessment procedures within the meaning of the Agreement on Technical Barriers to Trade on goods in transit.
9. Members shall allow and provide for advance filing and processing of transit documentation and data prior to the arrival of goods.
10. Once traffic in transit has reached the customs office where it exits the territory of the Member, that office shall promptly terminate the transit operation if transit requirements have been met.
- 11.1. Where a Member requires a guarantee in the form of a surety, deposit or other appropriate monetary or non-monetary¹³ instrument for traffic in transit, such guarantee shall be limited to ensuring that requirements arising from such traffic in transit are fulfilled.
- 11.2. Once the Member has determined that its transit requirements have been satisfied, the guarantee shall be discharged without delay.
- 11.3. Each Member shall, in a manner consistent with its laws and regulations, allow comprehensive guarantees which include multiple transactions for same operators or renewal of guarantees without discharge for subsequent consignments.

¹³ Nothing in this provision shall preclude a Member from maintaining existing procedures whereby the mean of transport can be used as a guarantee for traffic in transit.

11.4 Each Member shall make available to the public the relevant information it uses to set the guarantee, including single transaction and, where applicable, multiple transaction guarantee.

11.5 Each Member may require the use of customs convoys or customs escorts for traffic in transit only in circumstances presenting high risks or when compliance with customs laws and regulations cannot be ensured through the use of guarantees. General rules applicable to customs convoys or customs escorts shall be published in accordance with Article 1.

12. Members shall endeavour to cooperate and coordinate with one another with a view to enhance freedom of transit. Such cooperation and coordination may include, but is not limited to an understanding on:

- i. charges;
- ii. formalities and legal requirements; and
- iii. the practical operation of transit regimes.

13. Each Member shall endeavour to appoint a national transit coordinator to which all enquiries and proposals by other Members relating to the good functioning of transit operations can be addressed.

ARTICLE 12: CUSTOMS COOPERATION

1 Measures Promoting Compliance and Cooperation

1.1. Members agree on the importance of ensuring that traders are aware of their compliance obligations, encouraging voluntary compliance to allow importers to self-correct without penalty in appropriate circumstances, and applying compliance measures to initiate stronger measures for non-compliant traders.¹⁴

1.2. Members are encouraged to share information on best practices in managing customs compliance, including through the Committee on Trade Facilitation. Members are encouraged to cooperate in technical guidance or assistance in building capacity for the purposes of administering compliance measures, and enhancing their effectiveness.

2 Exchange of Information

2.1. Upon request, and subject to the provisions of this Article, Members shall exchange the information set out in paragraph 6 b. and/or c. for the purpose of verifying an import or export declaration in identified cases where there are reasonable grounds to doubt the truth or accuracy of the declaration.

2.2. Each Member shall notify to the Committee the details of its contact point for the exchange of this information.

3 Verification

A Member shall make a request for information only after it has conducted appropriate verification procedures of an import or export declaration and after it has inspected the available relevant documentation.

4 Request

4.1. The requesting Member shall provide the requested Member with a written request, through paper or electronic means in a mutually agreed WTO or other language, including:

- a. the matter at issue including, where appropriate and available, the serial number of the export declaration corresponding to the import declaration in question;

¹⁴ Such activity has the overall objective of lowering the frequency of non-compliance, and consequently reducing the need for exchange of information in pursuit of enforcement.

- b. the purpose for which the requesting Member is seeking the information or documents, along with the names and contact details of the persons about which the request relates, if known;
- c. where required by the requested Member, provide confirmation¹⁵ of the verification where appropriate.
- d. the specific information or documents requested;
- e. the identity of the originating office making the request;
- f. reference to provisions of the requesting Member's domestic law and legal system that govern the collection, protection, use, disclosure, retention and disposal of confidential information and personal data;

4.2. If the requesting Member is not in a position to comply with any of the sub-paragraphs of 4.1, it shall specify this in the request.

5 Protection and confidentiality

5.1. The requesting Member shall, subject to paragraph 5.2:

- a. hold all information or documents provided by the requested Member strictly in confidence and grant at least the same level of such protection and confidentiality as that provided under the domestic law and legal system of the requested Member as described by it under paragraphs 6.1 b. and 6.1 c.;
- b. provide the information or documents only to the customs authorities dealing with the matter at issue and use the information or documents solely for the purpose stated in the request unless the requested Member agrees otherwise in writing;
- c. not disclose the information or documents without the specific written permission of the requested Member;
- d. not use any unverified information or documents from the requested Member as the deciding factor towards alleviating the doubt in any given circumstance;
- e. respect any case-specific conditions set out by the requested Member regarding retention and disposal of confidential information or documents and personal data; and
- f. upon request, inform the requested Member of any decisions and actions taken on the matter as a result of the information or documents provided.

5.2. A requesting Member may be unable under its domestic law and legal system to comply with any of the sub-paragraphs of 5.1. If so, the requesting Member shall specify this in the request.

5.3. The Requested Member shall treat any request, and verification information, received under paragraph 4 with at least the same level of protection and confidentiality accorded by the requested member to its own similar information.

6 Provision of information

6.1. Subject to the provisions of this article, the requested Member shall promptly:

- a. respond in writing, through paper or electronic means;
- b. provide the specific information as set out in the import or export declaration, or the declaration, to the extent it is available, along with a description of the level of protection and confidentiality required of the requesting Member;
- c. if requested, provide the specific information as set out in the following documents, or the documents, submitted in support of the import or export declaration, to the extent it is available: commercial invoice, packing list, certificate of origin and bill of lading, in the

¹⁵ This may include pertinent information on the verification conducted under paragraph 12.3. Such information shall be subject to the level of protection and confidentiality specified by the Member conducting the verification.

form in which these were filed, whether paper or electronic, along with a description of the level of protection and confidentiality required of the requesting Member;

- d. confirm that the documents provided are true copies;
- e. provide the information or otherwise respond to the request, to the extent possible, within 90 days from the date of the request.

6.2. The requested Member may require, under its domestic law and legal system, an assurance prior to the provision of information that the specific information will not be used as evidence in criminal investigations, judicial proceedings, or in non-customs proceedings without the specific written permission of the requested Member. If the requesting Member is not in a position to comply with this requirement it should specify this to the requested Member.

7 Postponement or refusal of a request

7.1. A requested Member may postpone or refuse part or all of a request to provide information, and shall so inform the requesting Member of the reasons for doing so, where:

- a. it would be contrary to the public interest as reflected in the domestic law and legal system of the requested Member.
- b. its domestic law and legal system prevents the release of the information. In such case it shall provide the requesting Member with a copy of the relevant, specific reference.
- c. the provision of the information would impede law enforcement or otherwise interfere with an on-going administrative or judicial investigation, prosecution or proceeding.
- d. the consent of the importer or exporter is required by domestic law and legal system that govern the collection, protection, use, disclosure, retention and disposal of confidential information or personal data and that consent is not given.
- e. the request for information is received after the expiration of the legal requirement of the requested Member for the retention of documents.

7.2. In the circumstances of paragraph 4.2, 5.2 or 6.2 execution of such a request shall be at the discretion of the requested Member.

8 Reciprocity

If the requesting Member is of the opinion that it would be unable to comply with a similar request in case such a request was made by the requested Member, or if it has not yet implemented this Article, it shall state that fact in its request. Execution of such a request shall be at the discretion of the requested Member.

9 Administrative burden

9.1. The requesting Member shall take into account the associated resource and cost implications for the requested Member's administration in responding to requests for information. The requesting Member shall consider the proportionality between its fiscal interest in pursuing its request and the efforts to be made by the requested Member in providing the information.

9.2. If a requested Member receives an unmanageable number of requests for information, or a request for information of unmanageable scope from one or more requesting Member(s), and is unable to meet such requests within a reasonable time it may request one or more of the requesting Member(s) to prioritize with a view to agreeing on a practical limit within its resource constraints. In the absence of a mutually-agreed approach, the execution of such requests shall be at the discretion of the requested Member based on the results of its own prioritization.

10 Limitations

Requested Members shall not be required to:

- a. modify the format of their import or export declarations or procedures;

- b. call for documents other than those submitted with the import or export declaration as specified in paragraph 6 c.;
- c. initiate enquiries to obtain the information;
- d. modify the period of retention of such information;
- e. introduce paper documentation where electronic format has already been introduced;
- f. translate the information;
- g. verify the accuracy of the information;
- h. provide information that would prejudice the legitimate commercial interests of particular enterprises, public or private.

11 Unauthorized use or disclosure

11.1. In the event of any breach of the conditions of use or disclosure of information exchanged under this Article, the requesting Member that received the information shall promptly communicate the details of such unauthorized use or disclosure to the requested Member that provided the information, and:

- a. take necessary measures to remedy the breach;
- b. take necessary measures to prevent any future breach; and
- c. notify the requested Member of the measures taken under sub-paragraphs a. and b. above.

11.2. The requested Member may suspend its obligations to the requesting Member under this Article until the measures set out in paragraph 11.1 have been taken.

12 Bilateral and regional agreements

12.1. Nothing in this Article shall prevent a Member from entering into or maintaining a bilateral, plurilateral, or regional agreement for sharing or exchange of customs information and data, including on a secure and rapid basis such as on an automatic basis or in advance of the arrival of the consignment.

12.2. Nothing in this Article shall be construed to alter or affect Members' rights or obligations under such bilateral, plurilateral or regional agreements or to govern the exchange of customs information and data under such other agreements.

ARTICLE 13: INSTITUTIONAL ARRANGEMENTS

1 COMMITTEE ON TRADE FACILITATION

1.1. A Committee on Trade Facilitation is hereby established.

1.2. The Committee shall be open for participation by all Members and shall elect its own Chairperson. The Committee shall meet as needed and envisaged by the relevant provisions of this Agreement, but no less than once a year, for the purpose of affording Members the opportunity to consult on any matters related to the operation of this Agreement or the furtherance of its objectives. The Committee shall carry out such responsibilities as assigned to it under this Agreement or by the Members. The Committee shall establish its own rules of procedure.

1.3. The Committee may establish such subsidiary bodies as may be required. All such bodies shall report to the Committee.

1.4. The Committee shall develop procedures for sharing by Members of relevant information and best practices as appropriate.

1.5. The Committee shall maintain close contact with other international organizations in the field of trade facilitation, such as the World Customs Organization, with the objective of securing the

best available advice for the implementation and administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided. To this end, the Committee may invite representatives of such organizations or their subsidiary bodies to:

- a. attend meetings of the Committee; and
- b. discuss specific matters related to the implementation of this Agreement.

1.6. The Committee shall review the operation and implementation of this Agreement 4 years from its entry into force, and periodically thereafter.

1.7. Members are encouraged to raise before the Committee questions relating to issues on the implementation and application of this Agreement.

1.8. The Committee shall encourage and facilitate ad hoc discussions among Members on specific issues under this Agreement, with a view to reaching a mutually satisfactory solution promptly.

2 NATIONAL COMMITTEE ON TRADE FACILITATION

Each Member shall establish and/or maintain a national committee on trade facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of provisions of this Agreement.

SECTION II

SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS FOR DEVELOPING COUNTRY MEMBERS AND LEAST DEVELOPED COUNTRY MEMBERS

1 General Principles

1.1. The provisions contained in Articles 1 to 12 of this Agreement shall be implemented by developing and least developed country Members in accordance with this Section, which is based on the modalities agreed in Annex D of the July 2004 Framework Agreement (WT/L/579) and paragraph 33 and Annex E of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC).

1.2. Assistance and support for capacity building¹⁶ should be provided to help developing and least-developed country Members implement the provisions of this agreement, in accordance with their nature and scope. The extent and the timing of implementing the provisions of this Agreement shall be related to the implementation capacities of developing and least developed country Members. Where a developing or least developed country Member continues to lack the necessary capacity, implementation of the provision(s) concerned will not be required until implementation capacity has been acquired.

1.3. Least developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

1.4. These principles shall be applied through the provisions set out in Section II.

2 CATEGORIES OF PROVISIONS

2.1. There are three categories of provisions:

- a. Category A contains provisions that a developing country Member or a least developed country Member designates for implementation upon entry into force of this Agreement, or in the case of a least developed country Member within one year after entry into force, as provided in paragraph 3.
- b. Category B contains provisions that a developing country Member or a least developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement, as provided in paragraph 4.
- c. Category C contains provisions that a developing country Member or a least developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building, as provided for in paragraph 4.

2.2. Each developing country and least developed country Member shall self-designate, on an individual basis, the provisions it is including under each of the Categories A, B and C.

3 Notification and Implementation of Category A

3.1. Upon entry into force of this Agreement, each developing country Member shall implement its Category A commitments. Those commitments designated under Category A will thereby be made an integral part of this Agreement.

3.2. A least developed country Member may notify the Committee of the provisions it has designated in Category A for up to one year after entry into force of this Agreement. Each least developed country Member's commitments designated under Category A will thereby be made an integral part of this Agreement.

¹⁶ For the purposes of this Agreement, "assistance and support for capacity building" may take the form of technical, financial, or any other mutually agreed form of assistance provided.

4 Notification of Definitive Dates for Implementation of Category B and Category C

4.1. With respect to the provisions that a developing country Member has not designated in Category A, the Member may delay implementation in accordance with the process set out in this paragraph.

Developing Country Member Category B

- a. Upon entry into force of this Agreement, each developing country Member shall notify to the Committee the provisions that it has designated in Category B and corresponding indicative dates for implementation.¹⁷
- b. No later than one year after entry into force of this Agreement, each developing country Member shall notify to the Committee its definitive dates for implementation of the provisions it has designated in Category B. If a developing country Member, before this deadline, believes it requires additional time to notify its definitive dates, the Member may request that the Committee extend the period sufficient to notify its dates.

Developing Country Member Category C

- c. Upon entry into force of this Agreement, each developing country Member shall notify to the Committee the provisions that it has designated in Category C and corresponding indicative dates for implementation. For transparency purposes, notifications submitted shall include information on the assistance and support for capacity building that the Member requires in order to implement¹⁸.
- d. Within one year after entry into force of this Agreement, developing country Members and relevant donor Members, taking into account any existing arrangements already in place, notifications pursuant to paragraph 10.1 and information submitted pursuant to sub-paragraph c. above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.¹⁹ The participating developing country Member shall promptly inform the Committee of such arrangements. The Committee shall also invite non-Member donors to provide information on existing or concluded arrangements.
- e. Within 18 months from the date of the provision of the information stipulated in sub-paragraph 4.1 d., donor Members and respective developing country Members shall inform the Committee on progress in the provision of assistance and support. Each developing country Member shall, at the same time, notify its list of definitive dates for implementation.

4.2. With respect to those provisions that a least developed country Member has not designated under Category A, least developed country Members may delay implementation in accordance with the process set forth in this paragraph.

Least Developed Country Member Category B

- a. No later than one year after entry into force of this Agreement, a least developed country Member shall notify the Committee its Category B provisions and may notify corresponding indicative dates for implementation of these provisions, taking into account maximum flexibilities for least developed country Members.
- b. No later than two years after the notification date stipulated under sub-paragraph a. above, each least developed country Member shall notify the Committee to confirm designations of provisions and notify its dates for implementation. If a least developed country Member, before this deadline, believes it requires additional time to notify its

¹⁷ Notifications submitted may also include such further information as the notifying Member deems appropriate. Members are encouraged to provide information on the domestic agency/entity responsible for implementation.

¹⁸ Members may also include information on national trade facilitation implementation plans or projects; the domestic agency/entity responsible for implementation; and the donors with which the Member may have an arrangement in place to provide assistance.

¹⁹ Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with paragraph 9.3.

definitive dates, the Member may request that the Committee extend the period sufficiently to notify its dates.

Least Developed Country Member Category C

- c. For transparency purposes and to facilitate arrangements with donors, one year after entry into force of this Agreement each least developed country Member shall notify the Committee of the provisions it has designated in Category C, taking into account maximum flexibilities for least developed country Members.
- d. One year after the date stipulated in sub-paragraph c. above, least developed country Members shall notify information on assistance and support for capacity building that the Member requires in order to implement.²⁰
- e. Within two years after the notification under sub-paragraph d. above, least developed country Members and relevant donor Members, taking into account information submitted pursuant to sub-paragraph d. above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.²¹ The participating least developed country Member shall promptly inform the Committee of such arrangements. The least developed country Member shall, at the same time, notify indicative dates for implementation of corresponding Category C commitments covered by the assistance arrangements. The Committee shall also invite non-Member donors to provide information on existing and concluded arrangements.
- f. Within 18 months from the date of the provision of the information stipulated in sub-paragraph 4.2 e., relevant donor Members and respective least developed country Members shall inform the Committee on progress in the provision of assistance and support. Each least-developed country Member shall, at the same time, notify its list of definitive dates for implementation.

4.3. Developing country Members and least developed country Members experiencing difficulties in submitting definitive dates for implementation within the deadlines set out in paragraphs 4.1 and 4.2 because of the lack of donor support or lack of progress in the provision of assistance and support should notify the Committee as early as possible prior to the expiration of those deadlines. Members agree to cooperate to assist in addressing such difficulties, taking into account the particular circumstances and special problems facing the Member concerned. The Committee shall, as appropriate, take action to address the difficulties including, where necessary, by extending the deadlines for the Member concerned to notify its definitive dates.

4.4. Three months before the deadline stipulated in paragraph 4.1 b. or 4.1 e., or in the case of a least developed country Member paragraph 4.2 b. or 4.2 f., the Secretariat shall remind a Member if that Member has not notified a definitive date for implementation of provisions that it has designated in Category B or C. If the Member does not invoke paragraph 4.3 or paragraph 4.1 b., or in the case of a least developed country Member paragraph 4.2 b., to extend the deadline and still does not notify a definitive date for implementation, the Member shall implement the provisions within one year after the deadline stipulated in paragraph 4.1 b. or 4.1 e., or in the case of a least developed country Member paragraph 4.2 b. or 4.2 f., or extended by paragraph 4.3.

4.5. No later than 60 days after the dates for notification of definitive dates for implementation of Category B and Category C in accordance with paragraphs 4.1, 4.2 or 4.3, the Committee shall take note of the annexes containing each Member's definitive dates for implementation of Category B and Category C provisions, including any dates set under paragraph 4.4, thereby making these annexes an integral part of this Agreement.

²⁰ Members may also include information on national trade facilitation implementation plans and projects and information on the domestic agency/entity responsible for implementation, and the donors with which the Member may have an arrangement in place to provide assistance.

²¹ Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with subparagraph 9.3.

5 Early Warning Mechanism: Extension of Implementation Dates for Provisions in Categories B and C

5.1.

- a. A developing country Member or least developed country Member that considers itself to be experiencing difficulty in implementing a provision that it has designated in Category B or Category C by the definitive date established under paragraph 4.1 b. or 4.1 e., or in the case of a least-developed country Member paragraph 4.2 b. or 4.2 f., and should notify the Committee. Developing countries shall notify the Committee no later than 120 days before the expiration of the implementation date. Least developed countries shall notify the Committee no later than 90 days before such date.
- b. The notification to the Committee shall indicate the new date by which the developing country Member or least developed country Member expects to be able to implement the provision concerned. The notification shall also indicate the reasons for the expected delay in implementation. Such reasons may include the need for assistance not earlier anticipated or additional assistance to help build capacity.

5.2. Where a developing country Member's request for additional time for implementation does not exceed 18 months or a least developed country Member's request for additional time does not exceed 3 years, the requesting Member is entitled to such additional time without any further action by the Committee.

5.3. Where a developing country or least developed country Member considers that it requires a first extension longer than that provided for in paragraph 5.2 or a second or any subsequent extension, it shall submit to the Committee a request for an extension containing the information described in 5.1 b. no later than 120 days in respect of a developing country and 90 days in respect of a least developed country before the expiration of the original definitive implementation date or that date as subsequently extended.

5.4. The Committee shall give sympathetic consideration to granting requests for extension taking into account the specific circumstances of the Member submitting the request. These circumstances may include difficulties and delays in obtaining assistance.

6 Implementation of Category B and Category C

6.1. In accordance with paragraph 1.2, if a developing country Member or a least developed country Member, having fulfilled the procedures set forth in sub-paragraph 4.1 or 4.2 and in paragraph 5, and where an extension requested has not been granted or where the developing country Member or least developed country Member otherwise experiences unforeseen circumstances that prevents an extension being granted under paragraph 5, self-assesses that its capacity to implement a provision under Category C continues to be lacking, that Member shall notify the Committee of its inability to implement the relevant provision.

6.2. The Trade Facilitation Committee shall immediately establish an Expert Group, and in any case no later than 60 days after the Committee receives the notification from the relevant developing country Member or least developed country Member. The Expert Group will examine the issue and make a recommendation to the Committee within 120 days of its composition.

6.3. The Expert Group shall be composed of five independent persons, highly qualified in the fields of trade facilitation and assistance and support for capacity building. The composition of the Expert Group shall ensure balance between nationals from developing and developed country Members. Where a least developed country Member is involved, the Expert Group shall include at least one national from a least developed country. If the Committee cannot agree on the composition of the Expert Group within 20 days of its establishment, the Director-General, in consultation with the chair of the Committee, shall determine the composition of the Expert Group in accordance with the terms of this paragraph.

6.4. The Expert Group shall consider the Member's self-assessment of lack of capacity and shall make a recommendation to the Trade Facilitation Committee. When considering the Expert Group's recommendation concerning a least developed country Member, the Committee shall, as appropriate, take action that will facilitate the acquisition of sustainable implementation capacity.

6.5. The Member shall not be subject to proceedings under the Dispute Settlement Understanding on this issue from the time the developing country Member notifies the Committee of its inability to implement the relevant provision until the first meeting of the Committee after it receives the recommendation of the Expert Group. At that meeting, the Committee shall consider the recommendation of the Expert Group. For the least developed country Member, the proceedings under the Dispute Settlement Understanding shall not apply on the respective provision from the date of notification to the Committee of its inability to implement the provision until the Committee makes a decision on the issue, or within 24 months after the first Committee meeting set out above, whichever is the earlier.

6.6. Where a least developed country Member loses its ability to implement a Category C commitment, it may inform the Committee and follow the procedures set out in paragraph 6.

7 Shifting between Categories B and C

7.1. Developing Country Members and least developed country Members who have notified provisions under Categories B and C may shift provisions between such categories through the submission of a notification to the Committee. Where a Member proposes to shift a provision from Category B to C, the Member shall provide information on the assistance and support required to build capacity.

7.2. In the event that additional time is required to implement a provision as a result of it having been shifted from Category B to Category C, the Member may:

- a. use the provisions of paragraph 5, including the opportunity for an automatic extension; or
- b. request an examination by the Committee of the Member's request for extra time to implement the provision and, if necessary, for assistance and support for capacity building, including the possibility of a review and recommendation by the Expert Group under paragraph 6; or
- c. in the case of a least developed country Member, any new implementation date of more than four years after the original date notified under Category B shall require approval by the Committee. In addition, a least developed country continues to have recourse to paragraph 5. It is understood that assistance and support for capacity building is required for a least developed country Member so shifting.

8 Grace Period for the Application of the Understanding on Rules and Procedures Governing the Settlement of Disputes

8.1. For a period of 2 years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a developing country Member concerning any provision that the Member has designated in Category A.

8.2. For a period of 6 years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a least developed country Member concerning any provision that the Member has designated in Category A.

8.3. For a period of 8 years after implementation of a provision under Category B and C by a least developed country Member, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against that least developed country Member concerning those provisions.

8.4. Notwithstanding the grace period for the application of the Understanding on Rules and Procedures Governing the Settlement of Disputes, before making a request for consultations pursuant to Articles XXII or XXIII, and at all stages of dispute settlement procedures with regard to a measure of a least developed country Member, a Member shall give particular consideration to the special situation of least developed country Members. In this regard, Members shall exercise due restraint in raising matters under the Understanding on Rules and Procedures Governing the Settlement of Disputes involving least developed country Members.

8.5. Each Member shall, upon request, during the grace period allowed under this paragraph, provide adequate opportunity to other Members for discussion with respect to any issue relating to the implementation of this Agreement.

9 Provision of Assistance for Capacity Building

9.1. Donor Members agree to facilitate the provision of assistance and support for capacity building to developing country and least developed country Members, on mutually agreed terms and either bilaterally or through the appropriate international organizations. The objective is to assist developing country and least developed country Members to implement the provisions of Section I of this Agreement.

9.2. Given the special needs of least developed country Members, targeted assistance and support should be provided to the least developed country Members so as to help them build sustainable capacity to implement their commitments. Through the relevant development cooperation mechanisms and in coherence with the principles of technical assistance and capacity building as referred to in paragraph 9.3, development partners shall endeavour to provide assistance and support in this area in a way that does not compromise existing development priorities.

9.3. Members shall endeavour to apply the following principles for providing assistance and support for capacity building with regard to the implementation of this Agreement:

- a. take account of the overall developmental framework of recipient countries and regions and, where relevant and appropriate, ongoing reform and technical assistance programs;
- b. include, where relevant and appropriate, activities to address regional and sub-regional challenges and promote regional and sub-regional integration;
- c. ensure that ongoing trade facilitation reform activities of the private sector are factored into assistance activities;
- d. promote coordination between and among Members and other relevant institutions, including regional economic communities, to ensure maximum effectiveness of and results from this assistance. To this end:
 - i. coordination, primarily in the country or region where the assistance is to be provided, between partner Members and donors, and among bilateral and multilateral donors, should aim to avoid overlap and duplication in assistance programs and inconsistencies in reform activities through close coordination of technical assistance and capacity building interventions;
 - ii. for least developed country Members, the Enhanced Integrated Framework should be a part of this coordination process; and
 - iii. Members should also promote internal coordination between their trade and development officials, both in capitals and Geneva, in the implementation of the Agreement and technical assistance.
- e. encourage use of existing in-country and regional coordination structures such as roundtables and consultative groups to coordinate and monitor implementation activities; and
- f. encourage developing countries Members to provide capacity building to other developing and least developed country and consider supporting such activities, where possible.

- 9.4. The Committee shall hold at least one dedicated session per year to:
- a. discuss any problems regarding implementation of provisions or sub-parts of provisions;
 - b. review progress in the provision of technical assistance and capacity building to support the implementation of the Agreement, including any developing or least developed country Members not receiving adequate technical assistance and capacity building;
 - c. share experiences and information on ongoing assistance and implementation programs, including challenges and successes;
 - d. review donor notifications as set forth in paragraph 10; and
 - e. review the operation of paragraph 9.2.

10 Information on Assistance to be Submitted to the Committee

10.1. To provide transparency to developing and least developed Members on the provision of assistance and support for implementation of Section I, each donor Member assisting developing country and least developed country Members with the implementation of this Agreement shall submit to the Committee, at entry into force of the Agreement and annually thereafter, the following information on its assistance and support for capacity building that was disbursed in the preceding twelve months and, where available, that is committed in the next twelve months²²:

- a. a description of the assistance and support for capacity building;
- b. the status and amount committed/disbursed;
- c. procedures for disbursement of the assistance and support;
- d. the beneficiary country, or, where necessary, the region; and
- e. the implementing agency in the Member providing assistance and support.

The information shall be provided in the format specified in Annex 1. In the case of OECD members, the information submitted can be based on relevant information from the OECD Creditor Reporting System. Developing country Members declaring themselves in a position to provide assistance and support are encouraged to provide the information above.

10.2. Donor Members assisting developing country and least developed country Members shall submit to the Committee:

- a. contact points of their agencies responsible for providing assistance and support for capacity building related to the implementation of the provisions of Section I of this Agreement including, where practicable, information on such contact points within the country or region where the assistance and support is to be provided; and
- b. information on the process and mechanisms for requesting assistance and support.

Developing country Members declaring themselves in a position to provide assistance and support are encouraged to provide the information above.

10.3. Developing country and least developed country Members intending to avail themselves of trade facilitation-related assistance and support shall submit to the Committee information on contact point(s) of the office(s) responsible for coordinating and prioritizing such assistance and support.

10.4. Members may provide the information in paragraphs 10.2 and 10.3 through internet references and shall update the submitted information as necessary. The Secretariat shall make all such information publicly available.

10.5. The Committee shall invite relevant international and regional organizations (such as the IMF, OECD, UNCTAD, WCO, UN Regional Commissions, the World Bank, or their subsidiary bodies, and regional development banks) and other agencies of cooperation to provide information referred to in paragraphs 10.1, 10.2 and 10.4.

²² The information provided will reflect the demand driven nature of the provision of technical assistance.

FINAL PROVISIONS

1. For the purpose of this Agreement, the term "Member" is deemed to include the competent authority of that Member.
2. All provisions of this Agreement are binding on all Members.
3. Members shall implement this Agreement from the date of its entry into force. Developing country Members and least developed country Members that choose to use the provisions of Section II shall implement this Agreement in accordance with Section II.
4. A Member which accepts this Agreement after its entry into force shall implement its Category B and C commitments counting the relevant periods from the date this Agreement enters into force.
5. Members of a customs union or a regional economic arrangement may adopt regional approaches to assist in the implementation of their obligations under the Agreement on Trade Facilitation including through the establishment and use of regional bodies.
6. Notwithstanding the General interpretative note to Annex 1A, nothing in this Agreement shall be construed as diminishing the obligations of Members under the GATT 1994. In addition, nothing in this Agreement 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.
7. All exceptions and exemptions²³ under the General Agreement on Tariffs and Trade 1994 shall apply to the provisions of this Agreement. Waivers applicable to the GATT 1994 or any part thereof, granted according to Article IX:3 and Article IX:4 of the Marrakesh Agreement establishing the WTO and any amendments thereto as of the date of entry into force of this Agreement, shall apply to the provisions of this Agreement.
8. The provisions of Articles XXII and XXIII of the General Agreement on Tariffs and Trade 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided for in this Agreement.
9. Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.
10. The Category A commitments of developing and least developed country Members annexed to this Agreement in accordance with paragraphs 3.1 and 3.2 of Section II shall constitute an integral part of this Agreement.
11. The Category B and C commitments of developing and least developed country Members taken note of by the Committee and annexed to this Agreement pursuant to paragraph 4.5 of Section II shall constitute an integral part of this Agreement.

²³ This includes Articles V:7 and X:1 of the GATT 1994 and the Ad note to Article VIII of the GATT 1994.

ANNEX 1: FORMAT FOR NOTIFICATION UNDER ARTICLE 10.1

Donor Member:

Period covered by the notification:

Description of the technical and financial assistance and capacity building resources	Status and amount committed/disbursed	Beneficiary country/ Region (where necessary)	The implementing agency in the Member providing assistance	Procedures for disbursement of the assistance



General Council

**PROTOCOL AMENDING THE MARRAKESH AGREEMENT ESTABLISHING
THE WORLD TRADE ORGANIZATION**

DECISION OF 27 NOVEMBER 2014

The General Council;

Having regard to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Recalling the General Council Decision to commence negotiations on the basis of the modalities set out in Annex D to that decision, adopted on 1 August 2004, as well as the Ministerial Decision of 7 December 2013 to draw up a Protocol of Amendment to insert the Agreement on Trade Facilitation into Annex 1A of the WTO Agreement (the "Protocol");

Recalling paragraph 47 of the Doha Ministerial Declaration of 20 November 2001;

Recalling paragraphs 2 and 3 of the Doha Ministerial Declaration, Annex D of the General Council Decision of August 2004 and Article 13.2 of the Agreement on Trade Facilitation on the importance of the provision of assistance and support for capacity building to help developing and least-developed countries to implement the provisions of the Agreement on Trade Facilitation;

Welcoming the Director General's announcement setting up, within the existing WTO structures, a Trade Facilitation Agreement Facility to manage support that Members volunteer to provide to the WTO in furtherance of supplementary assistance to implement the provisions of the Trade Facilitation Agreement and to facilitate coherence of assistance with the Annex D plus agencies;

Having considered the Agreement submitted by the Preparatory Committee on Trade Facilitation (WT/L/931);

Noting the consensus to submit this proposed amendment to the Members for acceptance;

Decides as follows:

1. The Protocol amending the WTO Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.
2. The Protocol shall hereby be open for acceptance by Members.
3. The Protocol shall enter into force in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.

**PROTOCOL AMENDING THE MARRAKESH AGREEMENT ESTABLISHING
THE WORLD TRADE ORGANIZATION**

Members of the World Trade Organization;

Referring to the Agreement on Trade Facilitation;

Having regard to the Decision of the General Council in document WT/L/940, adopted pursuant to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Hereby agree as follows:

1. Annex 1A to the WTO Agreement shall, upon entry into force of this Protocol pursuant to paragraph 4, be amended by the insertion of the Agreement on Trade Facilitation, as set out in the Annex to this Protocol, to be placed after the Agreement on Safeguards.
2. Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Members.
3. This Protocol is hereby open for acceptance by Members.
4. This Protocol shall enter into force in accordance with paragraph 3 of Article X of the WTO Agreement.¹
5. This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 3.
6. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this twenty-seventh day of November two thousand and fourteen, in a single copy in the English, French and Spanish languages, each text being authentic.

¹ For the purposes of calculation of acceptances under Article X.3 of the WTO Agreement, an instrument of acceptance by the European Union for itself and in respect of its Member States shall be counted as acceptance by a number of Members equal to the number of Member States of the European Union which are Members to the WTO.

**ANNEX TO THE PROTOCOL AMENDING THE MARRAKESH AGREEMENT
ESTABLISHING THE WORLD TRADE ORGANIZATION**

AGREEMENT ON TRADE FACILITATION

Preamble

Members,

Having regard to the negotiations launched under the Doha Ministerial Declaration;

Recalling and reaffirming the mandate and principles contained in paragraph 27 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1) and in Annex D of the Decision of the Doha Work Programme adopted by the General Council on 1 August 2004 (WT/L/579), as well as in paragraph 33 of and Annex E to the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC);

Desiring to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit;

Recognizing the particular needs of developing and especially least-developed country Members and desiring to enhance assistance and support for capacity building in this area;

Recognizing the need for effective cooperation among Members on trade facilitation and customs compliance issues;

Hereby *agree* as follows:

SECTION I

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 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 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.

2 Information Available Through Internet

2.1 Each Member shall make available, and update to the extent possible and as appropriate, the following through the internet:

- (a) a description¹ of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested parties of the practical steps needed for importation, exportation, and transit;
- (b) the forms and documents required for importation into, exportation from, or transit through the territory of that Member;
- (c) contact information on its enquiry point(s).

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 relevant trade-related legislation 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 and to provide the required forms and documents referred to in subparagraph 1.1(a).

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

3.3 Members are encouraged not to require the payment of a fee for answering enquiries and providing required forms and documents. If any, Members shall limit the amount of their fees and charges to the approximate cost of services rendered.

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.

4 Notification

Each Member shall notify the Committee on Trade Facilitation established under paragraph 1.1 of Article 23 (referred to in this Agreement as the "Committee") of:

- (a) the official place(s) where the items in subparagraphs 1.1(a) to (j) have been published;
- (b) the Uniform Resource Locators of website(s) referred to in paragraph 2.1; and
- (c) the contact information of the enquiry points referred to in paragraph 3.1.

¹ Each Member has the discretion to state on its website the legal limitations of this description.

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE, AND CONSULTATIONS**1 Opportunity to Comment and Information before Entry into Force**

1.1 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit.

1.2 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.

1.3 Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 1.1 or 1.2, measures applied in urgent circumstances, or minor changes to domestic law and legal system are each excluded from paragraphs 1.1 and 1.2.

2 Consultations

Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

ARTICLE 3: ADVANCE RULINGS

1. Each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information. If a Member declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

2. A Member may decline to issue an advance ruling to the applicant where the question raised in the application:

- (a) is already pending in the applicant's case before any governmental agency, appellate tribunal, or court; or
- (b) has already been decided by any appellate tribunal or court.

3. The advance ruling shall be valid for a reasonable period of time after its issuance unless the law, facts, or circumstances supporting that ruling have changed.

4. Where the Member revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Member revokes, modifies, or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false, or misleading information.

5. An advance ruling issued by a Member shall be binding on that Member in respect of the applicant that sought it. The Member may provide that the advance ruling is binding on the applicant.

6. Each Member shall publish, at a minimum:

- (a) the requirements for the application for an advance ruling, including the information to be provided and the format;
- (b) the time period by which it will issue an advance ruling; and

(c) the length of time for which the advance ruling is valid.

7. Each Member shall provide, upon written request of an applicant, a review of the advance ruling or the decision to revoke, modify, or invalidate the advance ruling.²

8. Each Member shall endeavour to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

9. Definitions and scope:

(a) An advance ruling is a written decision provided by a Member to the applicant prior to the importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:

(i) the good's tariff classification; and

(ii) the origin of the good.³

(b) In addition to the advance rulings defined in subparagraph (a), Members are encouraged to provide advance rulings on:

(i) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts;

(ii) the applicability of the Member's requirements for relief or exemption from customs duties;

(iii) the application of the Member's requirements for quotas, including tariff quotas; and

(iv) any additional matters for which a Member considers it appropriate to issue an advance ruling.

(c) An applicant is an exporter, importer or any person with a justifiable cause or a representative thereof.

(d) A Member may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

² Under this paragraph: (a) a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and (b) a Member is not required to provide the applicant with recourse to paragraph 1 of Article 4.

³ It is understood that an advance ruling on the origin of a good may be an assessment of origin for the purposes of the Agreement on Rules of Origin where the ruling meets the requirements of this Agreement and the Agreement on Rules of Origin. Likewise, an assessment of origin under the Agreement on Rules of Origin may be an advance ruling on the origin of a good for the purposes of this Agreement where the ruling meets the requirements of both agreements. Members are not required to establish separate arrangements under this provision in addition to those established pursuant to the Agreement on Rules of Origin in relation to the assessment of origin provided that the requirements of this Article are fulfilled.

ARTICLE 4: PROCEDURES FOR APPEAL OR REVIEW

1. Each Member shall provide that any person to whom customs issues an administrative decision⁴ has the right, within its territory, to:
 - (a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;

and/or
 - (b) a judicial appeal or review of the decision.
2. The legislation of a Member may require that an administrative appeal or review be initiated prior to a judicial appeal or review.
3. Each Member shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.
4. Each Member shall ensure that, in a case where the decision on appeal or review under subparagraph 1(a) is not given either:
 - (a) within set periods as specified in its laws or regulations; or
 - (b) without undue delaythe petitioner has the right to either further appeal to or further review by the administrative authority or the judicial authority or any other recourse to the judicial authority.⁵
5. Each Member shall ensure that the person referred to in paragraph 1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to procedures for appeal or review where necessary.
6. Each Member is encouraged to make the provisions of this Article applicable to an administrative decision issued by a relevant border agency other than customs.

ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY**1 Notifications for enhanced controls or inspections**

Where a Member adopts or maintains a system of issuing notifications or guidance to its concerned authorities for enhancing the level of controls or inspections at the border in respect of foods, beverages, or feedstuffs covered under the notification or guidance for protecting human, animal, or plant life or health within its territory, the following disciplines shall apply to the manner of their issuance, termination, or suspension:

- (a) the Member may, as appropriate, issue the notification or guidance based on risk;
- (b) the Member may issue the notification or guidance so that it applies uniformly only to those points of entry where the sanitary and phytosanitary conditions on which the notification or guidance are based apply;

⁴ An administrative decision in this Article means a decision with a legal effect that affects the rights and obligations of a specific person in an individual case. It shall be understood that an administrative decision in this Article covers an administrative action within the meaning of Article X of the GATT 1994 or failure to take an administrative action or decision as provided for in a Member's domestic law and legal system. For addressing such failure, Members may maintain an alternative administrative mechanism or judicial recourse to direct the customs authority to promptly issue an administrative decision in place of the right to appeal or review under subparagraph 1(a).

⁵ Nothing in this paragraph shall prevent a Member from recognizing administrative silence on appeal or review as a decision in favor of the petitioner in accordance with its laws and regulations.

- (c) the Member shall promptly terminate or suspend the notification or guidance when circumstances giving rise to it no longer exist, or if changed circumstances can be addressed in a less trade-restrictive manner; and
- (d) when the Member decides to terminate or suspend the notification or guidance, it shall, as appropriate, promptly publish the announcement of its termination or suspension in a non-discriminatory and easily accessible manner, or inform the exporting Member or the importer.

2 Detention

A Member shall promptly inform the carrier or importer in case of detention of goods declared for importation, for inspection by customs or any other competent authority.

3 Test Procedures

3.1 A Member may, upon request, grant an opportunity for a second test in case the first test result of a sample taken upon arrival of goods declared for importation shows an adverse finding.

3.2 A Member shall either publish, in a non-discriminatory and easily accessible manner, the name and address of any laboratory where the test can be carried out or provide this information to the importer when it is granted the opportunity provided under paragraph 3.1.

3.3 A Member shall consider the result of the second test, if any, conducted under paragraph 3.1, for the release and clearance of goods and, if appropriate, may accept the results of such test.

ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES

1 General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation

1.1 The provisions of paragraph 1 shall apply to all fees and charges other than import and export duties and other than taxes within the purview of Article III of GATT 1994 imposed by Members on or in connection with the importation or exportation of goods.

1.2 Information on fees and charges shall be published in accordance with Article 1. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.

1.3 An adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.

1.4 Each Member shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

2 Specific disciplines on Fees and Charges for Customs Processing Imposed on or in Connection with Importation and Exportation

Fees and charges for customs processing:

- (i) shall be limited in amount to the approximate cost of the services rendered on or in connection with the specific import or export operation in question; and
- (ii) are not required to be linked to a specific import or export operation provided they are levied for services that are closely connected to the customs processing of goods.

3 Penalty Disciplines

3.1 For the purpose of paragraph 3, the term "penalties" shall mean those imposed by a Member's customs administration for a breach of the Member's customs laws, regulations, or procedural requirements.

3.2 Each Member shall ensure that penalties for a breach of a customs law, regulation, or procedural requirement are imposed only on the person(s) responsible for the breach under its laws.

3.3 The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.

3.4 Each Member shall ensure that it maintains measures to avoid:

- (a) conflicts of interest in the assessment and collection of penalties and duties; and
- (b) creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 3.3.

3.5 Each Member shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

3.6 When a person voluntarily discloses to a Member's customs administration the circumstances of a breach of a customs law, regulation, or procedural requirement prior to the discovery of the breach by the customs administration, the Member is encouraged to, where appropriate, consider this fact as a potential mitigating factor when establishing a penalty for that person.

3.7 The provisions of this paragraph shall apply to the penalties on traffic in transit referred to in paragraph 3.1.

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

1 Pre-arrival Processing

1.1 Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

1.2 Each Member shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

2 Electronic Payment

Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees, and charges collected by customs incurred upon importation and exportation.

3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges

3.1 Each Member shall adopt or maintain procedures allowing the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

3.2 As a condition for such release, a Member may require:

- (a) payment of customs duties, taxes, fees, and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations; or
- (b) a guarantee in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations.

3.3 Such guarantee shall not be greater than the amount the Member requires to ensure payment of customs duties, taxes, fees, and charges ultimately due for the goods covered by the guarantee.

3.4 In cases where an offence requiring imposition of monetary penalties or fines has been detected, a guarantee may be required for the penalties and fines that may be imposed.

3.5 The guarantee as set out in paragraphs 3.2 and 3.4 shall be discharged when it is no longer required.

3.6 Nothing in these provisions shall affect the right of a Member to examine, detain, seize or confiscate or deal with the goods in any manner not otherwise inconsistent with the Member's WTO rights and obligations.

4 Risk Management

4.1 Each Member shall, to the extent possible, adopt or maintain a risk management system for customs control.

4.2 Each Member shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

4.3 Each Member shall concentrate customs control and, to the extent possible other relevant border controls, on high-risk consignments and expedite the release of low-risk consignments. A Member also may select, on a random basis, consignments for such controls as part of its risk management.

4.4 Each Member shall base risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, *inter alia*, the Harmonized System code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

5 Post-clearance Audit

5.1 With a view to expediting the release of goods, each Member shall adopt or maintain post-clearance audit to ensure compliance with customs and other related laws and regulations.

5.2 Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct post-clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations, and the reasons for the results.

5.3 The information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

5.4 Members shall, wherever practicable, use the result of post-clearance audit in applying risk management.

6 Establishment and Publication of Average Release Times

6.1 Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, *inter alia*, the Time Release Study of the World Customs Organization (referred to in this Agreement as the "WCO").⁶

6.2 Members are encouraged to share with the Committee their experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency.

7 Trade Facilitation Measures for Authorized Operators

7.1 Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

7.2 The specified criteria to qualify as an authorized operator shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures.

- (a) Such criteria, which shall be published, may include:
 - (i) an appropriate record of compliance with customs and other related laws and regulations;
 - (ii) a system of managing records to allow for necessary internal controls;
 - (iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and
 - (iv) supply chain security.
- (b) Such criteria shall not:
 - (i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and
 - (ii) to the extent possible, restrict the participation of small and medium-sized enterprises.

7.3 The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least three of the following measures:⁷

- (a) low documentary and data requirements, as appropriate;
- (b) low rate of physical inspections and examinations, as appropriate;
- (c) rapid release time, as appropriate;
- (d) deferred payment of duties, taxes, fees, and charges;

⁶ Each Member may determine the scope and methodology of such average release time measurement in accordance with its needs and capacity.

⁷ A measure listed in subparagraphs 7.3 (a) to (g) will be deemed to be provided to authorized operators if it is generally available to all operators.

- (e) use of comprehensive guarantees or reduced guarantees;
- (f) a single customs declaration for all imports or exports in a given period; and
- (g) clearance of goods at the premises of the authorized operator or another place authorized by customs.

7.4 Members are encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.

7.5 In order to enhance the trade facilitation measures provided to operators, Members shall afford to other Members the possibility of negotiating mutual recognition of authorized operator schemes.

7.6 Members shall exchange relevant information within the Committee about authorized operator schemes in force.

8 Expedited Shipments

8.1 Each Member shall adopt or maintain procedures allowing for the expedited release of at least those goods entered through air cargo facilities to persons who apply for such treatment, while maintaining customs control.⁸ If a Member employs criteria⁹ limiting who may apply, the Member may, in published criteria, require that the applicant shall, as conditions for qualifying for the application of the treatment described in paragraph 8.2 to its expedited shipments:

- (a) provide adequate infrastructure and payment of customs expenses related to processing of expedited shipments in cases where the applicant fulfils the Member's requirements for such processing to be performed at a dedicated facility;
- (b) submit in advance of the arrival of an expedited shipment the information necessary for the release;
- (c) be assessed fees limited in amount to the approximate cost of services rendered in providing the treatment described in paragraph 8.2;
- (d) maintain a high degree of control over expedited shipments through the use of internal security, logistics, and tracking technology from pick-up to delivery;
- (e) provide expedited shipment from pick-up to delivery;
- (f) assume liability for payment of all customs duties, taxes, fees, and charges to the customs authority for the goods;
- (g) have a good record of compliance with customs and other related laws and regulations;
- (h) comply with other conditions directly related to the effective enforcement of the Member's laws, regulations, and procedural requirements, that specifically relate to providing the treatment described in paragraph 8.2.

8.2 Subject to paragraphs 8.1 and 8.3, Members shall:

- (a) minimize the documentation required for the release of expedited shipments in accordance with paragraph 1 of Article 10 and, to the extent possible, provide for release based on a single submission of information on certain shipments;

⁸ In cases where a Member has an existing procedure that provides the treatment in paragraph 8.2, this provision does not require that Member to introduce separate expedited release procedures.

⁹ Such application criteria, if any, shall be in addition to the Member's requirements for operating with respect to all goods or shipments entered through air cargo facilities.

- (b) provide for expedited shipments to be released under normal circumstances as rapidly as possible after arrival, provided the information required for release has been submitted;
- (c) endeavour to apply the treatment in subparagraphs (a) and (b) to shipments of any weight or value recognizing that a Member is permitted to require additional entry procedures, including declarations and supporting documentation and payment of duties and taxes, and to limit such treatment based on the type of good, provided the treatment is not limited to low value goods such as documents; and
- (d) provide, to the extent possible, for a *de minimis* shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994 are not subject to this provision.

8.3 Nothing in paragraphs 8.1 and 8.2 shall affect the right of a Member to examine, detain, seize, confiscate or refuse entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems. Further, nothing in paragraphs 8.1 and 8.2 shall prevent a Member from requiring, as a condition for release, the submission of additional information and the fulfilment of non-automatic licensing requirements.

9 Perishable Goods¹⁰

9.1 With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Member shall provide for the release of perishable goods:

- (a) under normal circumstances within the shortest possible time; and
- (b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.

9.2 Each Member shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

9.3 Each Member shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release. The Member may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Member shall, where practicable and consistent with domestic legislation, upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

9.4 In cases of significant delay in the release of perishable goods, and upon written request, the importing Member shall, to the extent practicable, provide a communication on the reasons for the delay.

ARTICLE 8: BORDER AGENCY COOPERATION

1. Each Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.

2. Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:

¹⁰ For the purposes of this provision, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

- (a) alignment of working days and hours;
- (b) alignment of procedures and formalities;
- (c) development and sharing of common facilities;
- (d) joint controls;
- (e) establishment of one stop border post control.

ARTICLE 9: MOVEMENT OF GOODS INTENDED FOR IMPORT UNDER CUSTOMS CONTROL

Each Member shall, to the extent practicable, and provided all regulatory requirements are met, allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

1 Formalities and Documentation Requirements

1.1 With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

- (a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;
- (b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;
- (c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and
- (d) not maintained, including parts thereof, if no longer required.

1.2 The Committee shall develop procedures for the sharing by Members of relevant information and best practices, as appropriate.

2 Acceptance of Copies

2.1 Each Member shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for import, export, or transit formalities.

2.2 Where a government agency of a Member already holds the original of such a document, any other agency of that Member shall accept a paper or electronic copy, where applicable, from the agency holding the original in lieu of the original document.

2.3 A Member shall not require an original or copy of export declarations submitted to the customs authorities of the exporting Member as a requirement for importation.¹¹

¹¹ Nothing in this paragraph precludes a Member from requiring documents such as certificates, permits or licenses as a requirement for the importation of controlled or regulated goods.

3 Use of International Standards

3.1 Members are encouraged to use relevant international standards or parts thereof as a basis for their import, export, or transit formalities and procedures, except as otherwise provided for in this Agreement.

3.2 Members are encouraged to take part, within the limits of their resources, in the preparation and periodic review of relevant international standards by appropriate international organizations.

3.3 The Committee shall develop procedures for the sharing by Members of relevant information, and best practices, on the implementation of international standards, as appropriate.

The Committee may also invite relevant international organizations to discuss their work on international standards. As appropriate, the Committee may identify specific standards that are of particular value to Members.

4 Single Window

4.1 Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

4.2 In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

4.3 Members shall notify the Committee of the details of operation of the single window.

4.4 Members shall, to the extent possible and practicable, use information technology to support the single window.

5 Preshipment Inspection

5.1 Members shall not require the use of preshipment inspections in relation to tariff classification and customs valuation.

5.2 Without prejudice to the rights of Members to use other types of preshipment inspection not covered by paragraph 5.1, Members are encouraged not to introduce or apply new requirements regarding their use.¹²

6 Use of Customs Brokers

6.1 Without prejudice to the important policy concerns of some Members that currently maintain a special role for customs brokers, from the entry into force of this Agreement Members shall not introduce the mandatory use of customs brokers.

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.

6.3 With regard to the licensing of customs brokers, Members shall apply rules that are transparent and objective.

¹² This paragraph refers to preshipment inspections covered by the Agreement on Preshipment Inspection, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

7 Common Border Procedures and Uniform Documentation Requirements

7.1 Each Member shall, subject to paragraph 7.2, apply common customs procedures and uniform documentation requirements for release and clearance of goods throughout its territory.

7.2 Nothing in this Article shall prevent a Member from:

- (a) differentiating its procedures and documentation requirements based on the nature and type of goods, or their means of transport;
- (b) differentiating its procedures and documentation requirements for goods based on risk management;
- (c) differentiating its procedures and documentation requirements to provide total or partial exemption from import duties or taxes;
- (d) applying electronic filing or processing; or
- (e) differentiating its procedures and documentation requirements in a manner consistent with the Agreement on the Application of Sanitary and Phytosanitary Measures.

8 Rejected Goods

8.1 Where goods presented for import are rejected by the competent authority of a Member on account of their failure to meet prescribed sanitary or phytosanitary regulations or technical regulations, the Member shall, subject to and consistent with its laws and regulations, allow the importer to re-consign or to return the rejected goods to the exporter or another person designated by the exporter.

8.2 When such an option under paragraph 8.1 is given and the importer fails to exercise it within a reasonable period of time, the competent authority may take a different course of action to deal with such non-compliant goods.

9 Temporary Admission of Goods and Inward and Outward Processing

9.1 Temporary Admission of Goods

Each Member shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

9.2 Inward and Outward Processing

- (a) Each Member shall allow, as provided for in its laws and regulations, inward and outward processing of goods. Goods allowed for outward processing may be re-imported with total or partial exemption from import duties and taxes in accordance with the Member's laws and regulations.
- (b) For the purposes of this Article, the term "inward processing" means the customs procedure under which certain goods can be brought into a Member's customs territory conditionally relieved, totally or partially, from payment of import duties and taxes, or eligible for duty drawback, on the basis that such goods are intended for manufacturing, processing, or repair and subsequent exportation.
- (c) For the purposes of this Article, the term "outward processing" means the customs procedure under which goods which are in free circulation in a Member's customs territory may be temporarily exported for manufacturing, processing, or repair abroad and then re-imported.

ARTICLE 11: FREEDOM OF TRANSIT

1. Any regulations or formalities in connection with traffic in transit imposed by a Member shall not be:
 - (a) maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a reasonably available less trade-restrictive manner;
 - (b) applied in a manner that would constitute a disguised restriction on traffic in transit.
2. Traffic in transit shall not be conditioned upon collection of any fees or charges imposed in respect of transit, except the charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.
3. Members shall not seek, take, or maintain any voluntary restraints or any other similar measures on traffic in transit. This is without prejudice to existing and future national regulations, bilateral or multilateral arrangements related to regulating transport, consistent with WTO rules.
4. Each Member shall accord to products which will be in transit through the territory of any other Member treatment no less favourable than that which would be accorded to such products if they were being transported from their place of origin to their destination without going through the territory of such other Member.
5. Members are encouraged to make available, where practicable, physically separate infrastructure (such as lanes, berths and similar) for traffic in transit.
6. Formalities, documentation requirements, and customs controls in connection with traffic in transit shall not be more burdensome than necessary to:
 - (a) identify the goods; and
 - (b) ensure fulfilment of transit requirements.
7. Once goods have been put under a transit procedure and have been authorized to proceed from the point of origination in a Member's territory, they will not be subject to any customs charges nor unnecessary delays or restrictions until they conclude their transit at the point of destination within the Member's territory.
8. Members shall not apply technical regulations and conformity assessment procedures within the meaning of the Agreement on Technical Barriers to Trade to goods in transit.
9. Members shall allow and provide for advance filing and processing of transit documentation and data prior to the arrival of goods.
10. Once traffic in transit has reached the customs office where it exits the territory of a Member, that office shall promptly terminate the transit operation if transit requirements have been met.
11. Where a Member requires a guarantee in the form of a surety, deposit or other appropriate monetary or non-monetary¹³ instrument for traffic in transit, such guarantee shall be limited to ensuring that requirements arising from such traffic in transit are fulfilled.

¹³ Nothing in this provision shall preclude a Member from maintaining existing procedures whereby the means of transport can be used as a guarantee for traffic in transit.

12. Once the Member has determined that its transit requirements have been satisfied, the guarantee shall be discharged without delay.

13. Each Member shall, in a manner consistent with its laws and regulations, allow comprehensive guarantees which include multiple transactions for same operators or renewal of guarantees without discharge for subsequent consignments.

14. Each Member shall make publicly available the relevant information it uses to set the guarantee, including single transaction and, where applicable, multiple transaction guarantee.

15. Each Member may require the use of customs convoys or customs escorts for traffic in transit only in circumstances presenting high risks or when compliance with customs laws and regulations cannot be ensured through the use of guarantees. General rules applicable to customs convoys or customs escorts shall be published in accordance with Article 1.

16. Members shall endeavour to cooperate and coordinate with one another with a view to enhancing freedom of transit. Such cooperation and coordination may include, but is not limited to, an understanding on:

- (a) charges;
- (b) formalities and legal requirements; and
- (c) the practical operation of transit regimes.

17. Each Member shall endeavour to appoint a national transit coordinator to which all enquiries and proposals by other Members relating to the good functioning of transit operations can be addressed.

ARTICLE 12: CUSTOMS COOPERATION

1 Measures Promoting Compliance and Cooperation

1.1 Members agree on the importance of ensuring that traders are aware of their compliance obligations, encouraging voluntary compliance to allow importers to self-correct without penalty in appropriate circumstances, and applying compliance measures to initiate stronger measures for non-compliant traders.¹⁴

1.2 Members are encouraged to share information on best practices in managing customs compliance, including through the Committee. Members are encouraged to cooperate in technical guidance or assistance and support for capacity building for the purposes of administering compliance measures and enhancing their effectiveness.

2 Exchange of Information

2.1 Upon request and subject to the provisions of this Article, Members shall exchange the information set out in subparagraphs 6.1(b) and/or (c) for the purpose of verifying an import or export declaration in identified cases where there are reasonable grounds to doubt the truth or accuracy of the declaration.

2.2 Each Member shall notify the Committee of the details of its contact point for the exchange of this information.

3 Verification

A Member shall make a request for information only after it has conducted appropriate verification procedures of an import or export declaration and after it has inspected the available relevant documentation.

¹⁴ Such activity has the overall objective of lowering the frequency of non-compliance, and consequently reducing the need for exchange of information in pursuit of enforcement.

4 Request

4.1 The requesting Member shall provide the requested Member with a written request, through paper or electronic means in a mutually agreed official language of the WTO or other mutually agreed language, including:

- (a) the matter at issue including, where appropriate and available, the number identifying the export declaration corresponding to the import declaration in question;
- (b) the purpose for which the requesting Member is seeking the information or documents, along with the names and contact details of the persons to whom the request relates, if known;
- (c) where required by the requested Member, confirmation¹⁵ of the verification where appropriate;
- (d) the specific information or documents requested;
- (e) the identity of the originating office making the request;
- (f) reference to provisions of the requesting Member's domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information and personal data.

4.2 If the requesting Member is not in a position to comply with any of the subparagraphs of paragraph 4.1, it shall specify this in the request.

5 Protection and Confidentiality

5.1 The requesting Member shall, subject to paragraph 5.2:

- (a) hold all information or documents provided by the requested Member strictly in confidence and grant at least the same level of such protection and confidentiality as that provided under the domestic law and legal system of the requested Member as described by it under subparagraphs 6.1(b) or (c);
- (b) provide information or documents only to the customs authorities dealing with the matter at issue and use the information or documents solely for the purpose stated in the request unless the requested Member agrees otherwise in writing;
- (c) not disclose the information or documents without the specific written permission of the requested Member;
- (d) not use any unverified information or documents from the requested Member as the deciding factor towards alleviating the doubt in any given circumstance;
- (e) respect any case-specific conditions set out by the requested Member regarding retention and disposal of confidential information or documents and personal data; and
- (f) upon request, inform the requested Member of any decisions and actions taken on the matter as a result of the information or documents provided.

5.2 A requesting Member may be unable under its domestic law and legal system to comply with any of the subparagraphs of paragraph 5.1. If so, the requesting Member shall specify this in the request.

¹⁵ This may include pertinent information on the verification conducted under paragraph 3. Such information shall be subject to the level of protection and confidentiality specified by the Member conducting the verification.

5.3 The requested Member shall treat any request and verification information received under paragraph 4 with at least the same level of protection and confidentiality accorded by the requested Member to its own similar information.

6 Provision of Information

6.1 Subject to the provisions of this Article, the requested Member shall promptly:

- (a) respond in writing, through paper or electronic means;
- (b) provide the specific information as set out in the import or export declaration, or the declaration, to the extent it is available, along with a description of the level of protection and confidentiality required of the requesting Member;
- (c) if requested, provide the specific information as set out in the following documents, or the documents, submitted in support of the import or export declaration, to the extent it is available: commercial invoice, packing list, certificate of origin and bill of lading, in the form in which these were filed, whether paper or electronic, along with a description of the level of protection and confidentiality required of the requesting Member;
- (d) confirm that the documents provided are true copies;
- (e) provide the information or otherwise respond to the request, to the extent possible, within 90 days from the date of the request.

6.2 The requested Member may require, under its domestic law and legal system, an assurance prior to the provision of information that the specific information will not be used as evidence in criminal investigations, judicial proceedings, or in non-customs proceedings without the specific written permission of the requested Member. If the requesting Member is not in a position to comply with this requirement, it should specify this to the requested Member.

7 Postponement or Refusal of a Request

7.1 A requested Member may postpone or refuse part or all of a request to provide information, and shall inform the requesting Member of the reasons for doing so, where:

- (a) it would be contrary to the public interest as reflected in the domestic law and legal system of the requested Member;
- (b) its domestic law and legal system prevents the release of the information. In such a case it shall provide the requesting Member with a copy of the relevant, specific reference;
- (c) the provision of the information would impede law enforcement or otherwise interfere with an on-going administrative or judicial investigation, prosecution or proceeding;
- (d) the consent of the importer or exporter is required by its domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information or personal data and that consent is not given; or
- (e) the request for information is received after the expiration of the legal requirement of the requested Member for the retention of documents.

7.2 In the circumstances of paragraphs 4.2, 5.2, or 6.2, execution of such a request shall be at the discretion of the requested Member.

8 Reciprocity

If the requesting Member is of the opinion that it would be unable to comply with a similar request if it was made by the requested Member, or if it has not yet implemented this Article, it shall state that fact in its request. Execution of such a request shall be at the discretion of the requested Member.

9 Administrative Burden

9.1 The requesting Member shall take into account the associated resource and cost implications for the requested Member in responding to requests for information. The requesting Member shall consider the proportionality between its fiscal interest in pursuing its request and the efforts to be made by the requested Member in providing the information.

9.2 If a requested Member receives an unmanageable number of requests for information or a request for information of unmanageable scope from one or more requesting Member(s) and is unable to meet such requests within a reasonable time, it may request one or more of the requesting Member(s) to prioritize with a view to agreeing on a practical limit within its resource constraints. In the absence of a mutually-agreed approach, the execution of such requests shall be at the discretion of the requested Member based on the results of its own prioritization.

10 Limitations

A requested Member shall not be required to:

- (a) modify the format of its import or export declarations or procedures;
- (b) call for documents other than those submitted with the import or export declaration as specified in subparagraph 6.1(c);
- (c) initiate enquiries to obtain the information;
- (d) modify the period of retention of such information;
- (e) introduce paper documentation where electronic format has already been introduced;
- (f) translate the information;
- (g) verify the accuracy of the information; or
- (h) provide information that would prejudice the legitimate commercial interests of particular enterprises, public or private.

11 Unauthorized Use or Disclosure

11.1 In the event of any breach of the conditions of use or disclosure of information exchanged under this Article, the requesting Member that received the information shall promptly communicate the details of such unauthorized use or disclosure to the requested Member that provided the information and:

- (a) take necessary measures to remedy the breach;
- (b) take necessary measures to prevent any future breach; and
- (c) notify the requested Member of the measures taken under subparagraphs (a) and (b).

11.2 The requested Member may suspend its obligations to the requesting Member under this Article until the measures set out in paragraph 11.1 have been taken.

12 Bilateral and Regional Agreements

12.1 Nothing in this Article shall prevent a Member from entering into or maintaining a bilateral, plurilateral, or regional agreement for sharing or exchange of customs information and data, including on a secure and rapid basis such as on an automatic basis or in advance of the arrival of the consignment.

12.2 Nothing in this Article shall be construed as altering or affecting a Member's rights or obligations under such bilateral, plurilateral, or regional agreements, or as governing the exchange of customs information and data under such other agreements.

SECTION II

SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS FOR DEVELOPING COUNTRY MEMBERS AND LEAST-DEVELOPED COUNTRY MEMBERS

ARTICLE 13: GENERAL PRINCIPLES

1. The provisions contained in Articles 1 to 12 of this Agreement shall be implemented by developing and least-developed country Members in accordance with this Section, which is based on the modalities agreed in Annex D of the July 2004 Framework Agreement (WT/L/579) and in paragraph 33 of and Annex E to the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC).

2. Assistance and support for capacity building¹⁶ should be provided to help developing and least-developed country Members implement the provisions of this Agreement, in accordance with their nature and scope. The extent and the timing of implementation of the provisions of this Agreement shall be related to the implementation capacities of developing and least-developed country Members. Where a developing or least-developed country Member continues to lack the necessary capacity, implementation of the provision(s) concerned will not be required until implementation capacity has been acquired.

3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

4. These principles shall be applied through the provisions set out in Section II.

ARTICLE 14: CATEGORIES OF PROVISIONS

1. There are three categories of provisions:

- (a) Category A contains provisions that a developing country Member or a least-developed country Member designates for implementation upon entry into force of this Agreement, or in the case of a least-developed country Member within one year after entry into force, as provided in Article 15.
- (b) Category B contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement, as provided in Article 16.
- (c) Category C contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building, as provided for in Article 16.

¹⁶ For the purposes of this Agreement, "assistance and support for capacity building" may take the form of technical, financial, or any other mutually agreed form of assistance provided.

2. Each developing country and least-developed country Member shall self-designate, on an individual basis, the provisions it is including under each of the Categories A, B and C.

ARTICLE 15: NOTIFICATION AND IMPLEMENTATION OF CATEGORY A

1. Upon entry into force of this Agreement, each developing country Member shall implement its Category A commitments. Those commitments designated under Category A will thereby be made an integral part of this Agreement.

2. A least-developed country Member may notify the Committee of the provisions it has designated in Category A for up to one year after entry into force of this Agreement. Each least-developed country Member's commitments designated under Category A will thereby be made an integral part of this Agreement.

ARTICLE 16: NOTIFICATION OF DEFINITIVE DATES FOR IMPLEMENTATION OF CATEGORY B AND CATEGORY C

1. With respect to the provisions that a developing country Member has not designated in Category A, the Member may delay implementation in accordance with the process set out in this Article.

Developing Country Member Category B

- (a) Upon entry into force of this Agreement, each developing country Member shall notify the Committee of the provisions that it has designated in Category B and their corresponding indicative dates for implementation.¹⁷
- (b) No later than one year after entry into force of this Agreement, each developing country Member shall notify the Committee of its definitive dates for implementation of the provisions it has designated in Category B. If a developing country Member, before this deadline, believes it requires additional time to notify its definitive dates, the Member may request that the Committee extend the period sufficient to notify its dates.

Developing Country Member Category C

- (c) Upon entry into force of this Agreement, each developing country Member shall notify the Committee of the provisions that it has designated in Category C and their corresponding indicative dates for implementation. For transparency purposes, notifications submitted shall include information on the assistance and support for capacity building that the Member requires in order to implement.¹⁸
- (d) Within one year after entry into force of this Agreement, developing country Members and relevant donor Members, taking into account any existing arrangements already in place, notifications pursuant to paragraph 1 of Article 22 and information submitted pursuant to subparagraph (c) above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.¹⁹ The participating developing country Member shall promptly inform the Committee of such arrangements. The Committee shall also invite non-Member donors to provide information on existing or concluded arrangements.

¹⁷ Notifications submitted may also include such further information as the notifying Member deems appropriate. Members are encouraged to provide information on the domestic agency or entity responsible for implementation.

¹⁸ Members may also include information on national trade facilitation implementation plans or projects, the domestic agency or entity responsible for implementation, and the donors with which the Member may have an arrangement in place to provide assistance.

¹⁹ Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with paragraph 3 of Article 21.

- (e) Within 18 months from the date of the provision of the information stipulated in subparagraph (d), donor Members and respective developing country Members shall inform the Committee of the progress in the provision of assistance and support for capacity building. Each developing country Member shall, at the same time, notify its list of definitive dates for implementation.

2. With respect to those provisions that a least-developed country Member has not designated under Category A, least-developed country Members may delay implementation in accordance with the process set forth in this Article.

Least-Developed Country Member Category B

- (a) No later than one year after entry into force of this Agreement, a least-developed country Member shall notify the Committee of its Category B provisions and may notify their corresponding indicative dates for implementation of these provisions, taking into account maximum flexibilities for least-developed country Members.
- (b) No later than two years after the notification date stipulated under subparagraph (a) above, each least-developed country Member shall notify the Committee to confirm designations of provisions and notify its dates for implementation. If a least-developed country Member, before this deadline, believes it requires additional time to notify its definitive dates, the Member may request that the Committee extend the period sufficiently to notify its dates.

Least-Developed Country Member Category C

- (c) For transparency purposes and to facilitate arrangements with donors, one year after entry into force of this Agreement, each least-developed country Member shall notify the Committee of the provisions it has designated in Category C, taking into account maximum flexibilities for least-developed country Members.
- (d) One year after the date stipulated in subparagraph (c) above, least-developed country Members shall notify information on assistance and support for capacity building that the Member requires in order to implement.²⁰
- (e) No later than two years after the notification under subparagraph (d) above, least-developed country Members and relevant donor Members, taking into account information submitted pursuant to subparagraph (d) above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.²¹ The participating least-developed country Member shall promptly inform the Committee of such arrangements. The least-developed country Member shall, at the same time, notify indicative dates for implementation of corresponding Category C commitments covered by the assistance and support arrangements. The Committee shall also invite non-Member donors to provide information on existing and concluded arrangements.
- (f) No later than 18 months from the date of the provision of the information stipulated in subparagraph (e), relevant donor Members and respective least-developed country Members shall inform the Committee of the progress in the provision of assistance and support for capacity building. Each least-developed country Member shall, at the same time, notify the Committee of its list of definitive dates for implementation.

3. Developing country Members and least-developed country Members experiencing difficulties in submitting definitive dates for implementation within the deadlines set out in paragraphs 1 and 2 because of the lack of donor support or lack of progress in the provision of assistance and

²⁰ Members may also include information on national trade facilitation implementation plans or projects, the domestic agency or entity responsible for implementation, and the donors with which the Member may have an arrangement in place to provide assistance.

²¹ Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with paragraph 3 of Article 21.

support for capacity building should notify the Committee as early as possible prior to the expiration of those deadlines. Members agree to cooperate to assist in addressing such difficulties, taking into account the particular circumstances and special problems facing the Member concerned. The Committee shall, as appropriate, take action to address the difficulties including, where necessary, by extending the deadlines for the Member concerned to notify its definitive dates.

4. Three months before the deadline stipulated in subparagraphs 1(b) or (e), or in the case of a least-developed country Member, subparagraphs 2(b) or (f), the Secretariat shall remind a Member if that Member has not notified a definitive date for implementation of provisions that it has designated in Category B or C. If the Member does not invoke paragraph 3, or in the case of a developing country Member subparagraph 1(b), or in the case of a least-developed country Member subparagraph 2(b), to extend the deadline and still does not notify a definitive date for implementation, the Member shall implement the provisions within one year after the deadline stipulated in subparagraphs 1(b) or (e), or in the case of a least-developed country Member, subparagraphs 2(b) or (f), or extended by paragraph 3.

5. No later than 60 days after the dates for notification of definitive dates for implementation of Category B and Category C provisions in accordance with paragraphs 1, 2, or 3, the Committee shall take note of the annexes containing each Member's definitive dates for implementation of Category B and Category C provisions, including any dates set under paragraph 4, thereby making these annexes an integral part of this Agreement.

ARTICLE 17: EARLY WARNING MECHANISM: EXTENSION OF IMPLEMENTATION DATES FOR PROVISIONS IN CATEGORIES B AND C

1.

- (a) A developing country Member or least-developed country Member that considers itself to be experiencing difficulty in implementing a provision that it has designated in Category B or Category C by the definitive date established under subparagraphs 1(b) or (e) of Article 16, or in the case of a least-developed country Member subparagraphs 2(b) or (f) of Article 16, should notify the Committee. Developing country Members shall notify the Committee no later than 120 days before the expiration of the implementation date. Least-developed country Members shall notify the Committee no later than 90 days before such date.
- (b) The notification to the Committee shall indicate the new date by which the developing country Member or least-developed country Member expects to be able to implement the provision concerned. The notification shall also indicate the reasons for the expected delay in implementation. Such reasons may include the need for assistance and support for capacity building not earlier anticipated or additional assistance and support to help build capacity.

2. Where a developing country Member's request for additional time for implementation does not exceed 18 months or a least-developed country Member's request for additional time does not exceed 3 years, the requesting Member is entitled to such additional time without any further action by the Committee.

3. Where a developing country or least-developed country Member considers that it requires a first extension longer than that provided for in paragraph 2 or a second or any subsequent extension, it shall submit to the Committee a request for an extension containing the information described in subparagraph 1(b) no later than 120 days in respect of a developing country Member and 90 days in respect of a least-developed country Member before the expiration of the original definitive implementation date or that date as subsequently extended.

4. The Committee shall give sympathetic consideration to granting requests for extension taking into account the specific circumstances of the Member submitting the request. These circumstances may include difficulties and delays in obtaining assistance and support for capacity building.

ARTICLE 18: IMPLEMENTATION OF CATEGORY B AND CATEGORY C

1. In accordance with paragraph 2 of Article 13, if a developing country Member or a least-developed country Member, having fulfilled the procedures set forth in paragraphs 1 or 2 of Article 16 and in Article 17, and where an extension requested has not been granted or where the developing country Member or least-developed country Member otherwise experiences unforeseen circumstances that prevent an extension being granted under Article 17, self-assesses that its capacity to implement a provision under Category C continues to be lacking, that Member shall notify the Committee of its inability to implement the relevant provision.
2. The Committee shall establish an Expert Group immediately, and in any case no later than 60 days after the Committee receives the notification from the relevant developing country Member or least-developed country Member. The Expert Group will examine the issue and make a recommendation to the Committee within 120 days of its composition.
3. The Expert Group shall be composed of five independent persons that are highly qualified in the fields of trade facilitation and assistance and support for capacity building. The composition of the Expert Group shall ensure balance between nationals from developing and developed country Members. Where a least-developed country Member is involved, the Expert Group shall include at least one national from a least-developed country Member. If the Committee cannot agree on the composition of the Expert Group within 20 days of its establishment, the Director-General, in consultation with the chair of the Committee, shall determine the composition of the Expert Group in accordance with the terms of this paragraph.
4. The Expert Group shall consider the Member's self-assessment of lack of capacity and shall make a recommendation to the Committee. When considering the Expert Group's recommendation concerning a least-developed country Member, the Committee shall, as appropriate, take action that will facilitate the acquisition of sustainable implementation capacity.
5. The Member shall not be subject to proceedings under the Dispute Settlement Understanding on this issue from the time the developing country Member notifies the Committee of its inability to implement the relevant provision until the first meeting of the Committee after it receives the recommendation of the Expert Group. At that meeting, the Committee shall consider the recommendation of the Expert Group. For a least-developed country Member, the proceedings under the Dispute Settlement Understanding shall not apply to the respective provision from the date of notification to the Committee of its inability to implement the provision until the Committee makes a decision on the issue, or within 24 months after the date of the first Committee meeting set out above, whichever is earlier.
6. Where a least-developed country Member loses its ability to implement a Category C commitment, it may inform the Committee and follow the procedures set out in this Article.

ARTICLE 19: SHIFTING BETWEEN CATEGORIES B AND C

1. Developing country Members and least-developed country Members who have notified provisions under Categories B and C may shift provisions between such categories through the submission of a notification to the Committee. Where a Member proposes to shift a provision from Category B to Category C, the Member shall provide information on the assistance and support required to build capacity.
2. In the event that additional time is required to implement a provision shifted from Category B to Category C, the Member may:
 - (a) use the provisions of Article 17, including the opportunity for an automatic extension; or
 - (b) request an examination by the Committee of the Member's request for extra time to implement the provision and, if necessary, for assistance and support for capacity building, including the possibility of a review and recommendation by the Expert Group under Article 18; or

- (c) in the case of a least-developed country Member, any new implementation date of more than four years after the original date notified under Category B shall require approval by the Committee. In addition, a least-developed country Member shall continue to have recourse to Article 17. It is understood that assistance and support for capacity building is required for a least-developed country Member so shifting.

ARTICLE 20: GRACE PERIOD FOR THE APPLICATION OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES

1. For a period of two years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a developing country Member concerning any provision that the Member has designated in Category A.
2. For a period of six years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a least-developed country Member concerning any provision that the Member has designated in Category A.
3. For a period of eight years after implementation of a provision under Category B or C by a least-developed country Member, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against that least-developed country Member concerning that provision.
4. Notwithstanding the grace period for the application of the Understanding on Rules and Procedures Governing the Settlement of Disputes, before making a request for consultations pursuant to Articles XXII or XXIII of GATT 1994, and at all stages of dispute settlement procedures with regard to a measure of a least-developed country Member, a Member shall give particular consideration to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under the Understanding on Rules and Procedures Governing the Settlement of Disputes involving least-developed country Members.
5. Each Member shall, upon request, during the grace period allowed under this Article, provide adequate opportunity to other Members for discussion with respect to any issue relating to the implementation of this Agreement.

ARTICLE 21: PROVISION OF ASSISTANCE AND SUPPORT FOR CAPACITY BUILDING

1. Donor Members agree to facilitate the provision of assistance and support for capacity building to developing country and least-developed country Members on mutually agreed terms either bilaterally or through the appropriate international organizations. The objective is to assist developing country and least-developed country Members to implement the provisions of Section I of this Agreement.
2. Given the special needs of least-developed country Members, targeted assistance and support should be provided to the least-developed country Members so as to help them build sustainable capacity to implement their commitments. Through the relevant development cooperation mechanisms and consistent with the principles of technical assistance and support for capacity building as referred to in paragraph 3, development partners shall endeavour to provide assistance and support for capacity building in this area in a way that does not compromise existing development priorities.
3. Members shall endeavour to apply the following principles for providing assistance and support for capacity building with regard to the implementation of this Agreement:

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- (a) take account of the overall developmental framework of recipient countries and regions and, where relevant and appropriate, ongoing reform and technical assistance programs;
 - (b) include, where relevant and appropriate, activities to address regional and sub-regional challenges and promote regional and sub-regional integration;
 - (c) ensure that ongoing trade facilitation reform activities of the private sector are factored into assistance activities;
 - (d) promote coordination between and among Members and other relevant institutions, including regional economic communities, to ensure maximum effectiveness of and results from this assistance. To this end:
 - (i) coordination, primarily in the country or region where the assistance is to be provided, between partner Members and donors and among bilateral and multilateral donors should aim to avoid overlap and duplication in assistance programs and inconsistencies in reform activities through close coordination of technical assistance and capacity building interventions;
 - (ii) for least-developed country Members, the Enhanced Integrated Framework for trade-related assistance for the least-developed countries should be a part of this coordination process; and
 - (iii) Members should also promote internal coordination between their trade and development officials, both in capitals and in Geneva, in the implementation of this Agreement and technical assistance.
 - (e) encourage use of existing in-country and regional coordination structures such as roundtables and consultative groups to coordinate and monitor implementation activities; and
 - (f) encourage developing country Members to provide capacity building to other developing and least-developed country Members and consider supporting such activities, where possible.
4. The Committee shall hold at least one dedicated session per year to:
- (a) discuss any problems regarding implementation of provisions or sub-parts of provisions of this Agreement;
 - (b) review progress in the provision of assistance and support for capacity building to support the implementation of the Agreement, including any developing or least-developed country Members not receiving adequate assistance and support for capacity building;
 - (c) share experiences and information on ongoing assistance and support for capacity building and implementation programs, including challenges and successes;
 - (d) review donor notifications as set forth in Article 22; and
 - (e) review the operation of paragraph 2.

ARTICLE 22: INFORMATION ON ASSISTANCE AND SUPPORT FOR CAPACITY BUILDING TO BE SUBMITTED TO THE COMMITTEE

1. To provide transparency to developing country Members and least-developed country Members on the provision of assistance and support for capacity building for implementation of Section I, each donor Member assisting developing country Members and least-developed country Members with the implementation of this Agreement shall submit to the Committee, at entry into force of this Agreement and annually thereafter, the following information on its assistance and

support for capacity building that was disbursed in the preceding 12 months and, where available, that is committed in the next 12 months²²:

- (a) a description of the assistance and support for capacity building;
- (b) the status and amount committed/disbursed;
- (c) procedures for disbursement of the assistance and support;
- (d) the beneficiary Member or, where necessary, the region; and
- (e) the implementing agency in the Member providing assistance and support.

The information shall be provided in the format specified in Annex 1. In the case of Organisation for Economic Co-operation and Development (referred to in this Agreement as the "OECD") Members, the information submitted can be based on relevant information from the OECD Creditor Reporting System. Developing country Members declaring themselves in a position to provide assistance and support for capacity building are encouraged to provide the information above.

2. Donor Members assisting developing country Members and least-developed country Members shall submit to the Committee:

- (a) contact points of their agencies responsible for providing assistance and support for capacity building related to the implementation of Section I of this Agreement including, where practicable, information on such contact points within the country or region where the assistance and support is to be provided; and
- (b) information on the process and mechanisms for requesting assistance and support for capacity building.

Developing country Members declaring themselves in a position to provide assistance and support are encouraged to provide the information above.

3. Developing country Members and least-developed country Members intending to avail themselves of trade facilitation-related assistance and support for capacity building shall submit to the Committee information on contact point(s) of the office(s) responsible for coordinating and prioritizing such assistance and support.

4. Members may provide the information referred to in paragraphs 2 and 3 through internet references and shall update the information as necessary. The Secretariat shall make all such information publicly available.

5. The Committee shall invite relevant international and regional organizations (such as the International Monetary Fund, the OECD, the United Nations Conference on Trade and Development, the WCO, United Nations Regional Commissions, the World Bank, or their subsidiary bodies, and regional development banks) and other agencies of cooperation to provide information referred to in paragraphs 1, 2, and 4.

²² The information provided will reflect the demand driven nature of the provision of assistance and support for capacity building.

SECTION III**INSTITUTIONAL ARRANGEMENTS AND FINAL PROVISIONS****ARTICLE 23: INSTITUTIONAL ARRANGEMENTS****1 Committee on Trade Facilitation**

1.1 A Committee on Trade Facilitation is hereby established.

1.2 The Committee shall be open for participation by all Members and shall elect its own Chairperson. The Committee shall meet as needed and envisaged by the relevant provisions of this Agreement, but no less than once a year, for the purpose of affording Members the opportunity to consult on any matters related to the operation of this Agreement or the furtherance of its objectives. The Committee shall carry out such responsibilities as assigned to it under this Agreement or by the Members. The Committee shall establish its own rules of procedure.

1.3 The Committee may establish such subsidiary bodies as may be required. All such bodies shall report to the Committee.

1.4 The Committee shall develop procedures for the sharing by Members of relevant information and best practices as appropriate.

1.5 The Committee shall maintain close contact with other international organizations in the field of trade facilitation, such as the WCO, with the objective of securing the best available advice for the implementation and administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided. To this end, the Committee may invite representatives of such organizations or their subsidiary bodies to:

- (a) attend meetings of the Committee; and
- (b) discuss specific matters related to the implementation of this Agreement.

1.6 The Committee shall review the operation and implementation of this Agreement four years from its entry into force, and periodically thereafter.

1.7 Members are encouraged to raise before the Committee questions relating to issues on the implementation and application of this Agreement.

1.8 The Committee shall encourage and facilitate ad hoc discussions among Members on specific issues under this Agreement with a view to reaching a mutually satisfactory solution promptly.

2 National Committee on Trade Facilitation

Each Member shall establish and/or maintain a national committee on trade facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of the provisions of this Agreement.

ARTICLE 24: FINAL PROVISIONS

1. For the purpose of this Agreement, the term "Member" is deemed to include the competent authority of that Member.

2. All provisions of this Agreement are binding on all Members.

3. Members shall implement this Agreement from the date of its entry into force. Developing country Members and least-developed country Members that choose to use the provisions of Section II shall implement this Agreement in accordance with Section II.
4. A Member which accepts this Agreement after its entry into force shall implement its Category B and C commitments counting the relevant periods from the date this Agreement enters into force.
5. Members of a customs union or a regional economic arrangement may adopt regional approaches to assist in the implementation of their obligations under this Agreement including through the establishment and use of regional bodies.
6. Notwithstanding the general interpretative note to Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization, nothing in this Agreement shall be construed as diminishing the obligations of Members under the GATT 1994. In addition, nothing in this Agreement 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.
7. All exceptions and exemptions²³ under the GATT 1994 shall apply to the provisions of this Agreement. Waivers applicable to the GATT 1994 or any part thereof, granted according to Article IX:3 and Article IX:4 of the Marrakesh Agreement Establishing the World Trade Organization and any amendments thereto as of the date of entry into force of this Agreement, shall apply to the provisions of this Agreement.
8. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided for in this Agreement.
9. Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.
10. The Category A commitments of developing country Members and least-developed country Members annexed to this Agreement in accordance with paragraphs 1 and 2 of Article 15 shall constitute an integral part of this Agreement.
11. The Category B and C commitments of developing country Members and least-developed country Members taken note of by the Committee and annexed to this Agreement pursuant to paragraph 5 of Article 16 shall constitute an integral part of this Agreement.

²³ This includes Articles V:7 and X:1 of the GATT 1994 and the Ad note to Article VIII of the GATT 1994.

ANNEX 1: FORMAT FOR NOTIFICATION UNDER PARAGRAPH 1 OF ARTICLE 22

Donor Member:

Period covered by the notification:

	Description of the technical and financial assistance and capacity building resources	Status and amount committed/disbursed	Beneficiary country/ Region (where necessary)	The implementing agency in the Member providing assistance	Procedures for disbursement of the assistance
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