



# COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

MAJOR DECISIONS AND DOCUMENTS

JUNE 2018







WORLD TRADE ORGANIZATION  
ORGANISATION MONDIALE DU COMMERCE  
ORGANIZACIÓN MUNDIAL DEL COMERCIO

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## **COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES**

### **MAJOR DECISIONS AND DOCUMENTS**

**June 2018**

- 1. Agreement on the Application of Sanitary and Phytosanitary Measures**
- 2. Committee's Rules of Procedure**
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**AGREEMENT ON THE APPLICATION OF  
SANITARY AND PHYTOSANITARY MEASURES**

**15 April 1994**





## AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

*Members,*

*Reaffirming* that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

*Desiring* to improve the human health, animal health and phytosanitary situation in all Members;

*Noting* that sanitary and phytosanitary measures are often applied on the basis of bilateral agreements or protocols;

*Desiring* the establishment of a multilateral framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and phytosanitary measures in order to minimize their negative effects on trade;

*Recognizing* the important contribution that international standards, guidelines and recommendations can make in this regard;

*Desiring* to further the use of harmonized sanitary and phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring Members to change their appropriate level of protection of human, animal or plant life or health;

*Recognizing* that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or phytosanitary measures in their own territories, and desiring to assist them in their endeavours in this regard;

*Desiring* therefore to elaborate rules for the application of the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b)<sup>1</sup>;

*Hereby agree* as follows:

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<sup>1</sup>In this Agreement, reference to Article XX(b) includes also the chapeau of that Article.

## *Article 1*

### *General Provisions*

1. This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.
2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.
3. The annexes are an integral part of this Agreement.
4. Nothing in this Agreement shall affect the rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

## *Article 2*

### *Basic Rights and Obligations*

1. Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.
2. Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.
3. Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.
4. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

## *Article 3*

### *Harmonization*

1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.

2. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.

3. Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5.<sup>2</sup> Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protection different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.

4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.

5. The Committee on Sanitary and Phytosanitary Measures provided for in paragraphs 1 and 4 of Article 12 (referred to in this Agreement as the "Committee") shall develop a procedure to monitor the process of international harmonization and coordinate efforts in this regard with the relevant international organizations.

#### *Article 4*

##### *Equivalence*

1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

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<sup>2</sup>For the purposes of paragraph 3 of Article 3, there is a scientific justification if, on the basis of an examination and evaluation of available scientific information in conformity with the relevant provisions of this Agreement, a Member determines that the relevant international standards, guidelines or recommendations are not sufficient to achieve its appropriate level of sanitary or phytosanitary protection.

*Article 5*

*Assessment of Risk and Determination of the Appropriate Level  
of Sanitary or Phytosanitary Protection*

1. Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.
2. In the assessment of risks, Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.
3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.
4. Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects.
5. With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.
6. Without prejudice to paragraph 2 of Article 3, when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.<sup>3</sup>
7. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.

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<sup>3</sup>For purposes of paragraph 6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.

## *Article 6*

### *Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence*

1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area - whether all of a country, part of a country, or all or parts of several countries - from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, *inter alia*, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.
2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.
3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

## *Article 7*

### *Transparency*

Members shall notify changes in their sanitary or phytosanitary measures and shall provide information on their sanitary or phytosanitary measures in accordance with the provisions of Annex B.

## *Article 8*

### *Control, Inspection and Approval Procedures*

Members shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.

*Article 9*

*Technical Assistance*

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.
2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

*Article 10*

*Special and Differential Treatment*

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.
2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.
3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.
4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

*Article 11*

*Consultations and Dispute Settlement*

1. 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 herein.
2. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.

3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

## *Article 12*

### *Administration*

1. A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.

2. The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. The Committee shall encourage the use of international standards, guidelines or recommendations by all Members and, in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs.

3. The Committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.

4. The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or phytosanitary measures which the Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason therefor, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.

5. In order to avoid unnecessary duplication, the Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.

6. The Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 4.

7. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation.

### *Article 13*

#### *Implementation*

Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. Members shall take such reasonable measures as may be available to them to ensure that non-governmental entities within their territories, as well as regional bodies in which relevant entities within their territories are members, comply with the relevant provisions of this Agreement. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. Members shall ensure that they rely on the services of non-governmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.

### *Article 14*

#### *Final Provisions*

The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.



## ANNEX A

DEFINITIONS<sup>4</sup>

1. *Sanitary or phytosanitary measure* - Any measure applied:
    - (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
    - (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
    - (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
    - (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.
- Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.
2. *Harmonization* - The establishment, recognition and application of common sanitary and phytosanitary measures by different Members.
  3. *International standards, guidelines and recommendations*
    - (a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;
    - (b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;
    - (c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and

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<sup>4</sup>For the purpose of these definitions, "animal" includes fish and wild fauna; "plant" includes forests and wild flora; "pests" include weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.

- (d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.

4. *Risk assessment* - The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

5. *Appropriate level of sanitary or phytosanitary protection* - The level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.

NOTE: Many Members otherwise refer to this concept as the "acceptable level of risk".

6. *Pest- or disease-free area* - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

NOTE: A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area - whether within part of a country or in a geographic region which includes parts of or all of several countries - in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.

7. *Area of low pest or disease prevalence* - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.

## ANNEX B

## TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

*Publication of regulations*

1. Members shall ensure that all sanitary and phytosanitary regulations<sup>5</sup> which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.
2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

*Enquiry points*

3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:
  - (a) any sanitary or phytosanitary regulations adopted or proposed within its territory;
  - (b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
  - (c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
  - (d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.
4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals<sup>6</sup> of the Member concerned.

*Notification procedures*

5. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, Members shall:

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<sup>5</sup>Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

<sup>6</sup>When "nationals" are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

- (a) publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;
  - (b) notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;
  - (c) provide upon request to other Members copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;
  - (d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.
6. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 of this Annex as it finds necessary, provided that the Member:
- (a) immediately notifies other Members, through the Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);
  - (b) provides, upon request, copies of the regulation to other Members;
  - (c) allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.
7. Notifications to the Secretariat shall be in English, French or Spanish.
8. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.
9. The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.
10. Members shall designate a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 5, 6, 7 and 8 of this Annex.

*General reservations*

11. Nothing in this Agreement shall be construed as requiring:
- (a) the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 8 of this Annex; or
  - (b) Members to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.

## ANNEX C

CONTROL, INSPECTION AND APPROVAL PROCEDURES<sup>7</sup>

1. Members shall ensure, with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures, that:

- (a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;
- (b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant is informed of the stage of the procedure, with any delay being explained;
- (c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;
- (d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;
- (e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;
- (f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service;
- (g) the same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;
- (h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and
- (i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

Where an importing Member operates a system for the approval of the use of food additives or for the

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<sup>7</sup>Control, inspection and approval procedures include, *inter alia*, procedures for sampling, testing and certification.

establishment of tolerances for contaminants in food, beverages or feedstuffs which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or phytosanitary measure specifies control at the level of production, the Member in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.

3. Nothing in this Agreement shall prevent Members from carrying out reasonable inspection within their own territories.

RULES OF PROCEDURE FOR MEETINGS OF  
THE COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

Approved by the Council for Trade in Goods on 11 June 1997

At its meeting of 19-20 March 1997, the Committee agreed that the Rules of Procedure for meetings of the General Council (WT/L/161) shall apply *mutatis mutandis* for meetings of the Committee on Sanitary and Phytosanitary Measures except as otherwise provided in the Working Procedures (G/SPS/1) as established or as subsequently amended by the Committee on Sanitary and Phytosanitary Measures and except as provided below:

- (i) Rule 5 of Chapter II (Agenda) is not applicable.
- (ii) Rule 6 of Chapter II (Agenda) shall be modified to read as follows:

The first item of business at each meeting shall be the consideration and approval of the agenda. Representatives or the Chairperson may suggest amendments to the proposed agenda, or additions to the agenda under "Other Business". Representatives shall provide the Chairperson or the Secretariat, and the other Members directly concerned, whenever possible, advance notice of items intended to be raised under "Other Business".

- (iii) Rules 12, 13 and 14 of Chapter V (Officers) shall be modified to read as follows:

Rule 12

The Committee on Sanitary and Phytosanitary Measures shall elect a Chairperson<sup>1</sup> from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. The Chairperson shall hold office until the end of the first meeting of the following year.

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<sup>1</sup>The Committee on Sanitary and Phytosanitary Measures shall apply the relevant guidelines contained in the "Guidelines for Appointment of Officers to WTO Bodies" (WT/L/31 dated 7 February 1995).

Rule 13

If the Chairperson is absent from any meeting or part thereof, the Committee on Sanitary and Phytosanitary Measures shall appoint an interim Chairperson for that meeting or that part of the meeting.

Rule 14

If the Chairperson can no longer perform the functions of the office, the Committee on Sanitary and Phytosanitary Measures shall appoint an interim Chairperson to perform those functions pending the election of a new Chairperson.

- (iv) Rule 16 of Chapter VI (Conduct of Business) is not applicable.
- (v) Rule 24 of Chapter VI (Conduct of Business) shall be modified to read as follows:

In order to expedite the conduct of business, the Chairperson may invite representatives that wish to express their support for a given proposal to show their hands; thus, only representatives with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure shall only be applied in order to avoid undue repetition of points already made, and will not preclude any representative who so wishes from taking the floor.
- (vi) Rule 33 of Chapter VII (Decision-Making) shall be modified to read as follows:

In accordance with Article 12:1 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee shall reach its decisions by consensus.
- (vii) Rule 34 of Chapter VII (Decision-Making) is not applicable.
- (viii) Rule 36 of Chapter IX (Records) shall be replaced by the following:

Records of the Committee on Sanitary and Phytosanitary Measures meetings shall take the form of a summary report to be prepared by the Secretariat. Any delegation may, at their request, verify those portions of the draft report containing their statements prior to the issuance of the Secretariat summary report in accordance with the customary GATT practice. Delegations that wish to avail themselves of this verification procedure should so indicate to the Secretariat within 10 days of the close of the meeting concerned.



RULES OF PROCEDURE FOR SESSIONS OF THE MINISTERIAL CONFERENCE  
AND MEETINGS OF THE GENERAL COUNCIL\*

RULES OF PROCEDURE FOR SESSIONS OF THE MINISTERIAL CONFERENCE

Note: For the purposes of these Rules, the term "WTO Agreement" includes the Multilateral Trade Agreements.

Chapter I — Sessions

Rule 1

Regular sessions of the Ministerial Conference shall be held at least once every two years. The date of each regular session shall be fixed by the Ministerial Conference at a previous session.

Rule 2

A special session may, however, be held at another date on the initiative of the Chairperson, at the request of a Member concurred in by the majority of the Members, or by a decision of the General Council. Notice of the convening of any such session shall be given to Members at least twenty-one days before the opening of the session. In the event that the twenty-first day falls on a weekend or a holiday, the notice shall be issued no later than the preceding WTO working day.

Chapter II — Agenda

Rule 3

The provisional agenda for each regular session shall be drawn up by the Secretariat in consultation with the Chairperson and shall be communicated to Members at least five weeks before the opening of the session. It shall be open to any Member to propose items for inclusion in this provisional agenda up to six weeks before the opening of the session. Additional items on the agenda

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\*This document reproduces the rules of procedure for sessions of the Ministerial Conference and meetings of the General Council adopted by the General Council on 31 January 1995 (WT/L/28), as amended by the General Council on 3 April 1995 with regard to Chapter V - Officers of the Rules for the General Council, and on 18 July 1996 with regard to Annex 3 referred to in Rule 11 of the Rules for both the Ministerial Conference and the General Council.

shall be proposed under "Other Business" at the opening of the session. Inclusion of these items on the agenda shall depend upon the agreement of the Ministerial Conference.

#### Rule 4

The provisional agenda for a special session shall be drawn up by the Secretariat in consultation with the Chairperson and shall be communicated to Members at least twenty-one days before the opening of the session. It shall be open to any Member to propose items for inclusion in this provisional agenda up to twenty-one days before the opening of the session. Additional items on the agenda shall be proposed under "Other Business" at the opening of the session. Inclusion of these items on the agenda shall depend upon the agreement of the Ministerial Conference.

#### Rule 5

The first item of business at each session shall be the consideration and approval of the agenda.

#### Rule 6

The Ministerial Conference may amend the agenda or give priority to certain items at any time in the course of the Session.

### Chapter III — Credentials

#### Rule 7

Each Member shall be represented by an accredited representative.

#### Rule 8

Each representative may be accompanied by such alternates and advisers as the representative may require.

#### Rule 9

The credentials of representatives shall be submitted to the Secretariat at least one week before the opening of the session. They shall take the form of a communication from or on behalf of the Minister for Foreign Affairs or the competent authority of the Member authorizing the representative to perform on behalf of the Member the functions indicated in the WTO Agreement.<sup>1</sup> The Chairperson after consulting with the Secretariat shall draw attention to any case where a representative has omitted to present credentials in due time and form.

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<sup>1</sup>It is understood that in the case of a separate customs territory Member the credentials of its representatives shall have no implication as to sovereignty.

#### Chapter IV — Observers

##### Rule 10

Representatives of States or separate customs territories may attend the meetings as observers on the invitation of the Ministerial Conference in accordance with paragraphs 9 to 11 of the guidelines in Annex 2 to these Rules.

##### Rule 11

Representatives of international intergovernmental organizations may attend the meetings as observers on the invitation of the Ministerial Conference in accordance with the guidelines in Annex 3 to these Rules.

#### Chapter V — Officers

##### Rule 12

During the course of each regular session a Chairperson and three Vice-Chairpersons shall be elected from among the Members. They shall hold office from the end of that session until the end of the next regular session.

##### Rule 13

If the Chairperson is absent from any meeting or part thereof, one of the three Vice-Chairpersons shall perform the functions of the Chairperson. If no Vice-Chairperson is present the Ministerial Conference shall elect an interim Chairperson for that meeting or that part of the meeting.

##### Rule 14

If the Chairperson can no longer perform the functions of the office, the Ministerial Conference shall designate one of the Vice-Chairpersons to perform those functions pending election of a new Chairperson in accordance with rule 12.

##### Rule 15

The Chairperson shall normally participate in the proceedings as such and not as the representative of a Member. The Chairperson may, however, at any time request permission to act in either capacity.

#### Chapter VI — Conduct of business

##### Rule 16

A simple majority of the Members shall constitute a quorum.

#### Rule 17

In addition to exercising the powers conferred elsewhere by these rules, the Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairperson may also call a speaker to order if the remarks of the speaker are not relevant.

#### Rule 18

During the discussion of any matter, a representative may raise a point of order. In this case the Chairperson shall immediately state the ruling. If the ruling is challenged, the Chairperson shall immediately submit it for decision and it shall stand unless overruled.

#### Rule 19

During the discussion of any matter a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proponent of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion, after which the motion shall be submitted for decision immediately.

#### Rule 20

A representative may at any time move the closure of the debate. In addition to the proponent of the motion, not more than one representative may be granted permission to speak in favour of the motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be submitted for decision immediately.

#### Rule 21

During the course of the debate, the Chairperson may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Chairperson may, however, accord the right of reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

#### Rule 22

The Chairperson, with the consent of the meeting, may limit the time allowed to each speaker.

#### Rule 23

Proposals and amendments to proposals shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed.

#### Rule 24

If two or more proposals are moved relating to the same question, the meeting shall first decide on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

Rule 25

When an amendment is moved to a proposal, the amendment shall be submitted for decision first and, if it is adopted, the amended proposal shall then be submitted for decision.

Rule 26

When two or more amendments are moved to a proposal, the meeting shall decide first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been submitted for decision.

Rule 27

Parts of a proposal may be decided on separately if a representative requests that the proposal be divided.

## Chapter VII — Decision-Making

Rule 28

The Ministerial Conference shall take decisions in accordance with the decision-making provisions of the WTO Agreement, in particular Article IX thereof entitled "Decision-Making".

Rule 29

When, in accordance with the WTO Agreement, decisions are required to be taken by vote, such votes shall be taken by ballot. Ballot papers shall be distributed to representatives of Members present at the session and a ballot box placed in the conference room. However, the representative of any Member may request, or the Chairperson may suggest, that a vote be taken by the raising of cards or by roll call. In addition, where in accordance with the WTO Agreement a vote by a qualified majority of all Members is required to be taken, the Ministerial Conference may decide, upon request from a Member or the suggestion of the Chairperson, that the vote be taken by airmail ballots or ballots transmitted by telegraph or telefacsimile in accordance with the procedures described in Annex 1 to these Rules.

## Chapter VIII — Languages

Rule 30

English, French and Spanish shall be the working languages.

## Chapter IX — Records

Rule 31

Summary records of the meetings of the Ministerial Conference shall be kept by the Secretariat.<sup>2</sup>

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<sup>2</sup>The customary practice under the GATT 1947, whereby representatives may, upon their request, verify those portions of the draft records containing their statements, prior to the issuance of such records, shall be continued.

## Chapter X — Publicity of meetings

### Rule 32

The meetings of the Ministerial Conference shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.

### Rule 33

After a private meeting has been held, the Chairperson may issue a communiqué to the Press.

## Chapter XI — Revision

### Rule 34

The Ministerial Conference may decide at any time to revise these rules or any part of them.

## RULES OF PROCEDURE FOR MEETINGS OF THE GENERAL COUNCIL

Note: For the purposes of these Rules, the term "WTO Agreement" includes the Multilateral Trade Agreements.

### Chapter I — Meetings

#### Rule 1

The General Council shall meet as appropriate.

#### Rule 2

Meetings of the General Council shall be convened by the Director-General by a notice issued not less than ten calendar days prior to the date set for the meeting. In the event that the tenth day falls on a weekend or a holiday, the notice shall be issued no later than the preceding WTO working day. Meetings may be convened with shorter notice for matters of significant importance or urgency at the request of a Member concurred in by the majority of the Members.

### Chapter II — Agenda

#### Rule 3

A list of the items proposed for the agenda of the meeting shall be communicated to Members together with the convening notice for the meeting. It shall be open to any Member to suggest items for inclusion in the proposed agenda up to, and not including, the day on which the notice of the meeting is to be issued.

#### Rule 4

Requests for items to be placed on the agenda of a forthcoming meeting shall be communicated to the Secretariat in writing, together with the accompanying documentation to be issued in connection with that item. Documentation for consideration at a meeting shall be circulated not later than the day on which the notice of the meeting is to be issued.

#### Rule 5

A proposed agenda shall be circulated by the Secretariat one or two days before the meeting.

#### Rule 6

The first item of business at each meeting shall be the consideration and approval of the agenda. Representatives may suggest amendments to the proposed agenda, or additions to the agenda under "Other Business". Representatives shall provide the Chairperson or the Secretariat, and the other Members directly concerned, whenever possible, advance notice of items intended to be raised under "Other Business".

Rule 7

The General Council may amend the agenda or give priority to certain items at any time in the course of the meeting.

Chapter III — Representation

Rule 8

Each Member shall be represented by an accredited representative.

Rule 9

Each representative may be accompanied by such alternates and advisers as the representative may require.

Chapter IV — Observers

Rule 10

Representatives of States or separate customs territories may attend the meetings as observers on the invitation of the General Council in accordance with paragraphs 9 to 11 of the guidelines in Annex 2 to these Rules.

Rule 11

Representatives of international intergovernmental organizations may attend the meetings as observers on the invitation of the General Council in accordance with the guidelines in Annex 3 to these Rules.

Chapter V — Officers

Rule 12

The General Council shall elect a Chairperson\* from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. The Chairperson shall hold office until the end of the first meeting of the following year.

Rule 13

If the Chairperson is absent from any meeting or part thereof, the Chairperson of the Dispute Settlement Body or the Chairperson of the Trade Policy Review Body, shall perform the functions of the Chairperson. If the Chairperson of the Dispute Settlement Body and of the Trade Policy Review Body are also not present, the General Council shall elect an interim Chairperson for that meeting or that part of the meeting.

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\*The General Council shall apply the relevant guidelines contained in the "Guidelines for Appointment of Officers to WTO Bodies" (WT/L/31).



#### Rule 14

If the Chairperson can no longer perform the functions of the office, the General Council shall designate a Chairperson in accordance with Rule 13 to perform those functions pending the election of a new Chairperson.

#### Rule 15

The Chairperson shall not normally participate in the proceedings as the representative of a Member. The Chairperson may, however, at any time request permission to do so.

### Chapter VI — Conduct of business

#### Rule 16

A simple majority of the Members shall constitute a quorum.

#### Rule 17

In addition to exercising the powers conferred elsewhere by these rules, the Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairperson may also call a speaker to order if the remarks of the speaker are not relevant.

#### Rule 18

During the discussion of any matter, a representative may raise a point of order. In this case the Chairperson shall immediately state the ruling. If the ruling is challenged, the Chairperson shall immediately submit it for decision and it shall stand unless overruled.

#### Rule 19

During the discussion of any matter, a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proponent of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion, after which the motion shall be submitted for decision immediately.

#### Rule 20

A representative may at any time move the closure of the debate. In addition to the proponent of the motion, not more than one representative may be granted permission to speak in favour of the motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be submitted for decision immediately.

#### Rule 21

During the course of the debate, the Chairperson may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Chairperson may, however, accord the right of reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

#### Rule 22

The Chairperson, with the consent of the meeting, may limit the time allowed to each speaker.

#### Rule 23

Representatives shall endeavour, to the extent that a situation permits, to keep their oral statements brief. Representatives wishing to develop their position on a particular matter in fuller detail may circulate a written statement for distribution to Members, the summary of which, at the representative's request, may be reflected in the records of the General Council.

#### Rule 24

In order to expedite the conduct of business, the Chairperson may invite representatives that wish to express their support for a given proposal to show their hands, in order to be duly recorded in the records of the General Council as supporting statements; thus, only representatives with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure shall only be applied in order to avoid undue repetition of points already made, and will not preclude any representative who so wishes from taking the floor.

#### Rule 25

Representatives should avoid unduly long debates under "Other Business". Discussions on substantive issues under "Other Business" shall be avoided, and the General Council shall limit itself to taking note of the announcement by the sponsoring delegation, as well as any reactions to such an announcement by other delegations directly concerned.

#### Rule 26

While the General Council is not expected to take action in respect of an item introduced as "Other Business", nothing shall prevent the General Council, if it so decides, to take action in respect of any such item at a particular meeting, or in respect of any item for which documentation was not circulated at least ten calendar days in advance.

#### Rule 27

Representatives should make every effort to avoid the repetition of a full debate at each meeting on any issue that has already been fully debated in the past and on which there appears to have been no change in Members' positions already on record.

#### Rule 28

Proposals and amendments to proposals shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed.

## Rule 29

If two or more proposals are moved relating to the same question, the meeting shall first decide on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

## Rule 30

When an amendment is moved to a proposal, the amendment shall be submitted for decision first and, if it is adopted, the amended proposal shall then be submitted for decision.

## Rule 31

When two or more amendments are moved to a proposal, the meeting shall decide first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been submitted for decision.

## Rule 32

Parts of a proposal may be decided on separately if a representative requests that the proposal be divided.

## Chapter VII — Decision-Making

## Rule 33

The General Council shall take decisions in accordance with the decision-making provisions of the WTO Agreement, in particular Article IX thereof entitled "Decision-Making".

## Rule 34

When, in accordance with the WTO Agreement, decisions are required to be taken by vote, such votes shall be taken by ballot. Ballot papers shall be distributed to representatives of Members present at the meeting and a ballot box placed in the conference room. However, the representative of any Member may request, or the Chairperson may suggest, that a vote be taken by the raising of cards or by roll call. In addition, where in accordance with the WTO Agreement a vote by a qualified majority of all Members is required to be taken, the General Council may decide, upon request from a Member or the suggestion of the Chairperson, that the vote be taken by airmail ballots or ballots transmitted by telegraph or telefacsimile in accordance with the procedures described in Annex 1 to these Rules.

## Chapter VIII — Languages

## Rule 35

English, French and Spanish shall be the working languages.

## Chapter IX — Records

### Rule 36

Records of the discussions of the General Council shall be in the form of minutes.<sup>3</sup>

## Chapter X — Publicity of meetings

### Rule 37

The meetings of the General Council shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.

### Rule 38

After a private meeting has been held, the Chairperson may issue a communiqué to the Press.

## Chapter XI — Revision

### Rule 39

The General Council may decide at any time to revise these rules or any part of them.

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<sup>3</sup>The customary practice under the GATT 1947, whereby representatives may, upon their request, verify those portions of the draft records containing their statements, prior to the issuance of such records, shall be continued.

ANNEX 1

RULES FOR AIRMAIL BALLOTS AND BALLOTS  
TRANSMITTED BY TELEGRAPH OR TELEFACSIMILE

2b

In any case where the Ministerial Conference or the General Council decides that a vote be taken by airmail ballots or ballots transmitted by telegraph or telefacsimile, ballot papers shall be distributed to representatives of Members present at the meeting and a notice shall be sent to each Member. The notice shall contain such information as the Chairperson considers necessary and a clear statement of the question to which each Member shall be requested to answer "yes" or "no".

The Chairperson of the Ministerial Conference or the General Council shall determine the date and hour by which votes must be received. The time-limit shall be set at no later than 30 days after the date the notice is sent. Any Member from which a vote has not been received within such time-limit shall be regarded as not voting.

Members entitled to participate in a vote by airmail ballots or ballots transmitted by telegraph or telefacsimile are those which are Members at the time of the decision to submit the matter in question to a vote.

ANNEX 2

GUIDELINES FOR OBSERVER STATUS FOR GOVERNMENTS IN THE WTO

1. Governments seeking observer status in the Ministerial Conference shall address a communication to that body indicating their reasons for seeking such status. Such requests shall be examined on a case-by-case basis by the Ministerial Conference.
2. Governments accorded observer status at sessions of the Ministerial Conference shall not automatically have that status at meetings of the General Council or its subsidiary bodies. However, governments accorded such status in the General Council and its subsidiary bodies in accordance with the procedures described below, shall be invited to attend sessions of the Ministerial Conference as observers.
3. The purpose of observer status in the General Council and its subsidiary bodies is to allow a government to better acquaint itself with the WTO and its activities, and to prepare and initiate negotiations for accession to the WTO Agreement.
4. Governments wishing to request observer status in the General Council shall address to that body a communication expressing the intent to initiate negotiations for accession to the WTO Agreement within a maximum period of five years, and provide a description of their current economic and trade policies, as well as any intended future reforms of these policies.
5. The General Council shall examine requests for observer status by governments on a case-by-case basis.
6. Observer status in the General Council shall be granted initially for a period of five years. In addition to being invited to sessions of the Ministerial Conference, governments with observer status in the General Council may participate as observers at meetings of working parties and other subsidiary bodies of the General Council as appropriate, with the exception of the Committee on Budget, Finance and Administration.
7. During its period of observership, an observer government shall provide the Members of the WTO with any additional information it considers relevant concerning developments in its economic and trade policies. At the request of any Member or the observer government itself, any matter contained in such information may be brought to the attention of the General Council after governments have been allowed sufficient time to examine the information.
8.
  - (a) If, at the end of five years, an observer government has not yet initiated a process of negotiation with a view to acceding to the WTO Agreement, it may request an extension of its status as observer. Such a request shall be made in writing and shall be accompanied by a comprehensive, up-dated description of the requesting government's current economic and trade policies, as well as an indication of its future plans in relation to initiating accession negotiations.
  - (b) Upon receiving such a request, the General Council shall review the situation, and decide upon the extension of the status of observer and the duration of such extension.

9. Observer governments shall have access to the main WTO document series. They may also request technical assistance from the Secretariat in relation to the operation of the WTO system in general, as well as to negotiations on accession to the WTO Agreement.

10. Representatives of governments accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to make proposals, unless a government is specifically invited to do so, nor to participate in decision-making.

11. Observer governments shall be required to make financial contributions for services provided to them in connection with their observer status in the WTO, subject to financial regulations established pursuant to Article VII:2 of the WTO Agreement.

ANNEX 3

OBSERVER STATUS FOR INTERNATIONAL INTERGOVERNMENTAL  
ORGANIZATIONS IN THE WTO<sup>4</sup>

1. The purpose of observer status for international intergovernmental organizations (hereinafter referred to as "organizations") in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them.
2. Requests for observer status shall accordingly be considered from organizations which have competence and a direct interest in trade policy matters, or which, pursuant to paragraph V:1 of the WTO Agreement, have responsibilities related to those of the WTO.
3. Requests for observer status shall be made in writing to the WTO body in which such status is sought, and shall indicate the nature of the work of the organization and the reasons for its interest in being accorded such status. Requests for observer status from organizations shall not, however, be considered for meetings of the Committee on Budget, Finance and Administration or of the Dispute Settlement Body.<sup>5</sup>
4. Requests for observer status shall be considered on a case-by-case basis by each WTO body to which such a request is addressed, taking into account such factors as the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization has been associated in the past with the work of the CONTRACTING PARTIES to GATT 1947.
5. In addition to organizations that request, and are granted, observer status, other organizations may attend meetings of the Ministerial Conference, the General Council or subsidiary bodies on the specific invitation of the Ministerial Conference, the General Council or the subsidiary body concerned, as the case may be. Invitations may also be extended, as appropriate and on a case-by-case basis, to specific organizations to follow particular issues within a body in an observer capacity.
6. Organizations with which the WTO has entered into a formal arrangement for cooperation and consultation shall be accorded observer status in such bodies as may be determined by that arrangement.
7. Organizations accorded observer status in a particular WTO body shall not automatically be accorded such status in other WTO bodies.
8. Representatives of organizations accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to circulate papers or to make proposals, unless an organization is specifically invited to do so, nor to participate in decision-making.

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<sup>4</sup>These guidelines shall apply also to other organizations referred to by name in the WTO Agreement.

<sup>5</sup>In the case of the IMF and the World Bank, their requests for attendance as observers to the DSB will be acted upon in accordance with the arrangements to be concluded between the WTO and these two organizations.



9. Observer organizations shall receive copies of the main WTO documents series and of other documents series relating to the work of the subsidiary bodies which they attend as observers. They may receive such additional documents as may be specified by the terms of any formal arrangements for cooperation between them and the WTO.

10. If for any one-year period after the date of the grant of observer status, there has been no attendance by the observer organization, such status shall cease. In the case of sessions of the Ministerial Conference, this period shall be two years.



# WORLD TRADE ORGANIZATION

RESTRICTED

G/SPS/1

4 April 1995

(95-0804)

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## Committee on Sanitary and Phytosanitary Measures

2c

### WORKING PROCEDURES OF THE COMMITTEE<sup>1</sup>

#### Adopted by the Committee at its Meeting of 29-30 March 1995

#### Meetings of the Committee

1. The Committee shall meet to carry out the functions necessary to implement the provisions of the Agreement, or such other tasks which it may be required to deal with.
2. Notice of meetings of the Committee and a draft agenda shall be issued at least 10 days prior to the date of the meeting. It shall be open to any Member to request, in writing to the Secretariat, the inclusion of items under the proposed agenda up to, but not including, the day on which the notice convening the meeting is to be issued.
3. Matters relating to notifications, including notifications considered at previous meetings, can be raised or reverted to in the course of any meeting. A Member which proposes to raise any matter relating to a particular notification in the course of a meeting shall give notice of its intention to the notifying Member concerned and the Secretariat, together with an outline of its concerns, as far as possible in advance of the meeting.
4. The Committee shall hold at least two meetings per year. Each meeting shall provisionally schedule the dates and agenda for the next meeting. Additional meetings of the Committee may be scheduled as appropriate.

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<sup>1</sup>These working procedures are to apply until consideration of this matter by the Committee at its second meeting.

5. At the request of a Member, or at his/her own initiative, and where the matter involved is one of significant importance or urgency, the Chairperson may, unless it is considered that resort to other procedures would be more appropriate, convene a special meeting of the Committee.

#### **Other Matters**

6. With respect to any matter which has been raised under the Agreement, the Chairperson may, at the request of the Members directly concerned, assist them in dealing with the matter in question. The Chairperson shall normally report to the Committee on the general outcome with respect to the matter in question.

7. Representatives of the FAO/WHO Codex Alimentarius Commission (Codex), the Office international des epizooties (OIE) and the FAO Secretariat for the International Plant Protection Convention (IPPC) will be invited to attend meetings as observers, pending the final decision by the General Council. Representatives of other international intergovernmental organizations may be invited by the Committee to attend meetings as observers in accordance with the guidelines to be adopted by the General Council. Notwithstanding the above, the Committee may, as appropriate, decide to hold restricted sessions with participation of Members only.

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## Committee on Sanitary and Phytosanitary Measures

### REVISION OF THE PROCEDURE TO MONITOR THE PROCESS OF INTERNATIONAL HARMONIZATION

#### Decision of the Committee

#### Revision

At its meeting of 27-28 October 2004, the Committee adopted modifications to the provisional procedure to monitor the use of international standards, which had initially been adopted by the Committee in October 1997.

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#### Introduction

1. Articles 3.5 and 12.4 of the SPS Agreement require the Committee to develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. With the aim of encouraging Members to use international standards, guidelines and recommendations, the underlying purpose of this procedure is to identify where there is a major impact on trade resulting from the non-use of those international standards, guidelines or recommendations and to determine the reasons for the non-use of the standard, guideline or recommendation concerned. Moreover, it should also help to identify, for the benefit of the relevant international organizations, where a standard, guideline or recommendation was needed or was not appropriate for its purpose and use. This requires (a) identification of the international standards, guidelines or recommendations of concern or an identification of the cases where an international standard, guideline or recommendation was required; and (b) information from Members on their use or non-use of the identified standards, guidelines or recommendations, and the reasons therefore. In the light of Members' reasons for non-use, the SPS Committee might want to invite the relevant international standard-setting body to consider reviewing the existing standard, guideline or recommendation.

2. The development of a monitoring procedure was discussed at every formal meeting of the SPS Committee from 1995 to October 1997. Three submissions from Members suggested possible approaches: G/SPS/W/51 from the European Communities (March 1996), G/SPS/W/76 from the United States (October 1996) and G/SPS/W/81 from the United States (March 1997). During the discussion of these various submissions participants made it clear that they did not want a burdensome procedure, that duplication of the work undertaken by the relevant standard-setting bodies must be avoided, and that the monitoring procedure should focus on those standards, guidelines or recommendations that have a major impact on trade. On the basis of these concerns, and to avoid further delays, in July 1997 the Chairperson proposed a provisional procedure (G/SPS/W/82) and requested comments on this (reflected in G/SPS/W/82/Rev.1 and G/SPS/W/85).

3. At its meeting of 15-16 October 1997, the Committee agreed to implement the following monitoring procedure on a provisional basis. The proposal is drawn from the submissions by the Members mentioned above, as well as from the discussion in the Committee on these submissions. The Committee also agreed to review the operation of the provisional monitoring procedure 18 months after its implementation, with a view to deciding at that time whether to continue with the same procedure, amend it or develop another one.<sup>1</sup>

### **Monitoring Procedure**

4. In the initial stages, the scope of the monitoring system will be limited to the standards, guidelines or recommendations developed by the international organizations specifically cited in the SPS Agreement.<sup>2</sup> The Committee may, at a subsequent stage and if the need arises, consider standards, guidelines or recommendations produced by other relevant international organizations.

5. The international standards, guidelines or recommendations proposed by a Member to be monitored (see paragraph 6), on the basis of the lists available to the Committee<sup>3</sup>, should be limited to those which have a major trade impact. The trade impact of an international standard, guideline or recommendation should be determined primarily on the basis of the extent to which Members use the standard (apply it to imports) and the frequency or severity of problems experienced in the trade of the goods covered by the standard.

6. Members should submit, at least ten days in advance of each regular meeting of the Committee, concrete examples of what they consider to be problems with a significant trade impact which they believe are related to the use or non-use of relevant international standards, guidelines or recommendations.<sup>4</sup> In their submissions, Members should describe the nature of each of these trade problems and note whether it is the result of:

- (a) the non-use of an appropriate existing international standard, guideline or recommendation; or
- (b) the non-existence or inappropriateness of an existing international standard, guideline or recommendation, i.e. that it is out-dated, technically flawed, etc.

7. The standards, guidelines or recommendations identified by Members as above will be identified on the proposed agenda for the Committee meeting. The Secretariat should circulate the submissions it has received to all Members, as much in advance of the Committee's meeting as possible, in order to provide Members with the opportunity to prepare comments on their use or non-use of the standards, guidelines or recommendations and the reasons therefore. Should any Member so request, the Secretariat will not include in its annual report on this monitoring procedure (see paragraph 10) any specific issue raised in these submissions until Members have had the opportunity to provide further comments and to discuss those comments in one additional Committee meeting subsequent to the meeting in which the issue is first raised.

8. Based on the information provided by Members, and in the light of discussion in the Committee, a list of standards, guidelines or recommendations which have a major impact on international trade shall be established by the Committee. This list shall be reviewed at each meeting

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<sup>1</sup> Through Decisions of the Committee in July 1999 (G/SPS/14), July 2001 (G/SPS/17) and July 2003 (G/SPS/25), the Committee has extended the provisional procedure until July 2006.

<sup>2</sup> Codex, OIE and IPPC

<sup>3</sup> G/SPS/GEN/512 (OIE), G/SPS/GEN/513 (IPPC) and G/SPS/GEN/514 (Codex).

<sup>4</sup> Although no format has been adopted by the Committee, the format proposed in G/SPS/W/87 received considerable support from Members and has been widely used.

of the Committee. Members should provide information, for each of the standards, guidelines or recommendations identified, of any relevant trade impact, and on their use or non-use of the standard, guideline or recommendation and the reasons therefore.<sup>5</sup> The Committee may invite the relevant international standard-setting body to consider reviewing the existing standard, guideline or recommendation.

9. The Committee may invite the relevant standard-setting body to provide information, either in writing or through presentations at the relevant regular meeting of the Committee, on any standard, guideline or recommendation under consideration, including with regard to any changes or on-going revisions.

10. The Secretariat should prepare an annual report to the Committee on the list of standards, guidelines or recommendations established under paragraph 8, the major trade impacts identified by Members and their comments regarding the use or non use of the identified international standards, guidelines or recommendations and of those cases identified where there was no international standard, guideline or recommendation, and any conclusions drawn by the Committee. The Committee will transmit this report to the international organizations responsible for developing the relevant sanitary and phytosanitary standards, guidelines or recommendations. It is expected that Members will take this information into account, through their participation in these international organizations, in establishing those organizations' work priorities.

#### **Further Action**

11. Following the review noted in paragraph 3 of the operation of this provisional monitoring procedure, the Committee may want at a later stage to consider the need for a more focused monitoring procedure. In particular, the Committee may wish to consider developing standard formats for the supply of information under paragraphs 6-8<sup>6</sup>, and using those standards, guidelines or recommendations which have been identified as having a major impact on international trade and are of widespread concern to Members (paragraph 8 refers) as the basis for a pilot project to obtain additional information as to how Members are dealing with the standards, guidelines or recommendations of concern.

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<sup>5</sup> See G/SPS/W/100.

<sup>6</sup> See footnote 4.





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**Committee on Sanitary and Phytosanitary Measures**

**DECISION TO MODIFY AND EXTEND THE PROVISIONAL PROCEDURE TO  
MONITOR THE PROCESS OF INTERNATIONAL HARMONIZATION**

Adopted on 28 June 2006

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The Committee on Sanitary and Phytosanitary Measures,

*Having regard to* Articles 3.5 and 12.4 of the SPS Agreement;

*Taking into account* the provisional procedure to monitor the use of international standards adopted by the Committee at its meeting of 15-16 October 1997 and as subsequently revised on 27-28 October 2004 (G/SPS/11/Rev.1); the Committee's decisions of July 1999, July 2001 and of June 2003 to extend this provisional procedure, and to decide by July 2006 whether to continue with the same procedure, amend it or develop another one (G/SPS/25);

*Considering* that in reviewing the operation of the provisional procedure, it has noted that the procedure provided an effective mechanism for Members to raise specific standards-related issues;

*Considering* that at the Fourth Session of the Ministerial Conference, Ministers instructed the Committee to review the operation and implementation of the Agreement, as provided for in Article 12.7 of the Agreement, at least once every four years;

*Considering* that this procedure to monitor the use of international standards is related to the operation and implementation of the Agreement;

*Decides as follows:*

1. The provisional procedure to monitor the use of international standards, as modified, is extended indefinitely.
  2. The Committee will review the operation of the provisional procedure as an integral part of its periodic Review of the Operation and Implementation of the Agreement under Article 12.7, with a view to deciding whether to continue with the same procedure, amend it or develop another one. The next such Review is to be completed in 2009, and every four years subsequently.
  3. The Committee encourages Members to make use of this procedure to address their concerns regarding specific international standards or the need for such standards.
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**Committee on Sanitary and Phytosanitary Measures**

**DECISION ON THE IMPLEMENTATION OF ARTICLE 4  
OF THE AGREEMENT ON THE APPLICATION OF SANITARY  
AND PHYTOSANITARY MEASURES**

Revision<sup>1</sup>

The Committee on Sanitary and Phytosanitary Measures,

*Having regard* to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures;

*In response* to the request from the General Council that the Committee examine the concerns of developing country Members regarding the equivalence of sanitary or phytosanitary measures and develop concrete options as to how to deal with them;

*Reaffirming* the right of Members to establish sanitary and phytosanitary measures necessary to ensure the protection of human, animal and plant life or health and the protection of their territory from other damage caused by the entry, establishment or spread of pests, in accordance with the Agreement on the Application of Sanitary and Phytosanitary Measures;

*Desiring* to make operational the provisions of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures;

*Noting* that equivalence of sanitary or phytosanitary measures does not require duplication or sameness of measures, but the acceptance of alternative measures that meet an importing Member's appropriate level of sanitary or phytosanitary protection;

*Recognizing* that equivalence can be applied between all Members, irrespective of their level of development;

*Noting* that Members have faced difficulties applying the provisions of Article 4 recognizing the equivalence of sanitary and phytosanitary measures;

*Taking into account* the specific concerns raised by developing country Members, and particularly the least developed among them, regarding their difficulties in having the equivalence of their sanitary or phytosanitary measures accepted by importing Members;

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<sup>1</sup> This revision provides updated information with respect to actions taken pursuant to the Decision as adopted on 26 October 2001. This information is provided in footnotes to the relevant provisions in the Decision.

*Recognizing* the importance of minimizing possible negative effects of sanitary or phytosanitary measures on trade and of improving market access opportunities, particularly for products of interest to developing country Members;

*Recognizing* that transparency, exchange of information and confidence-building by both the importing and exporting Member are essential to achieving an agreement on equivalence;

*Recognizing* that there may be other less resource-intensive and time-consuming means for Members to enhance trade opportunities;

*Decides as follows:*

1. Equivalence can be accepted for a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis. Members shall, when so requested, seek to accept the equivalence of a measure related to a certain product or category of products. An evaluation of the product-related infrastructure and programmes within which the measure is being applied may also be necessary.<sup>2</sup> Members may further, where necessary and appropriate, seek more comprehensive and broad-ranging agreements on equivalence. The acceptance of the equivalence of a measure related to a single product may not require the development of a systems-wide equivalence agreement.
2. In the context of facilitating the implementation of Article 4, on request of the exporting Member, the importing Member should explain the objective and rationale of the sanitary or phytosanitary measure and identify clearly the risks that the relevant measure is intended to address. The importing Member should indicate the appropriate level of protection which its sanitary or phytosanitary measure is designed to achieve.<sup>3</sup> The explanation should be accompanied by a copy of the risk assessment on which the sanitary or phytosanitary measure is based or a technical justification based on a relevant international standard, guideline or recommendation. The importing Member should also provide any additional information which may assist the exporting Member to provide an objective demonstration of the equivalence of its own measure.
3. An importing Member shall respond in a timely manner to any request from an exporting Member for consideration of the equivalence of its measures, normally within a six-month period of time.
4. The exporting Member shall provide appropriate science-based and technical information to support its objective demonstration that its measure achieves the appropriate level of protection identified by the importing Member. This information may include, *inter alia*, reference to relevant international standards, or to relevant risk assessments undertaken by the importing Member or by another Member. In addition, the exporting Member shall provide reasonable access, upon request, to the importing Member for inspection, testing and other relevant procedures for the recognition of equivalence.
5. The importing Member should accelerate its procedure for determining equivalence in respect of those products which it has historically imported from the exporting Member.

*The Committee agrees that historic trade provides an opportunity for an importing Member to become familiar with the infrastructure and measures of an exporting*

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<sup>2</sup> Product-related infrastructure and programmes is in reference to testing, inspection and other relevant requirements specific to product safety.

<sup>3</sup> In doing so, Members should take into account the *Guidelines to Further the Practical Implementation of Article 5.5* adopted by the Committee on Sanitary and Phytosanitary Measures at its meeting of 21-22 June 2000 (document G/SPS/15, dated 18 July 2000).

*Member, and to develop confidence in the regulatory procedures of that Member. This information and experience, if directly relevant to the product and measure under consideration, should be taken into account in the recognition of equivalence of measures proposed by the exporting Member. In particular, information already available to the importing Member should not be sought again with respect to procedures to determine the equivalence of measures proposed by the exporting Member.*

*An importing Member should consider the relevant information and experience that the sanitary and phytosanitary services have on the measure(s) for which recognition of equivalence is requested as applied to the product for which that request relates.*

*This information and experience refers to:*

- (i) The historic knowledge and confidence that the competent authority of the importing Member has of the competent authority of the exporting Member.*
- (ii) The existence of an evaluation and recognition of the products-related system of inspection and certification of the exporting Member by the importing Member.*
- (iii) The available scientific information supporting the request for the recognition of equivalence.*

*The more such relevant information and experience is available to the importing Member, the more rapid should be the procedure for recognition of equivalence by that Member.*

*A Member should consider the existence of information between competent authorities related to sanitary and phytosanitary measures of other products (different from the one for which equivalence is requested) when this information is useful.*

*A Member should consider the risk of the product to which the sanitary and phytosanitary measures are applied, in order to reduce requirements and accelerate the procedure in cases of low risk.*

*The importing Member should not seek again information already available with respect to the determination of the equivalence of sanitary and phytosanitary measures proposed by the exporting Member, unless this information needs to be updated.*

*For accelerated procedures, the importing Member should estimate the steps that the demonstration of equivalence will require, and inform the exporting Member, when it is possible, of an estimated time schedule for the whole process. These steps should be considered between the exporting and importing Members, on an issue-by-issue basis, in order to give predictability to the process of determination of equivalence.*

*When more than one agency is involved, the relevant requirements of all of these agencies must be taken into account and included in the steps and timetable identified above.*

*The Committee notes that the importance of this knowledge based on historic trade has been fully recognized in the draft FAO/WHO Joint Codex Alimentarius Commission Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems.<sup>4</sup> The Committee further notes that the importance of such prior experience is also recognized in the draft paper of the World Organization for Animal Health (OIE) on the Judgement of Equivalence of Sanitary Measures relating to International Trade in Animals and Animal Products.<sup>5</sup> The Committee encourages that further elaboration of specific guidance by these organizations should ensure that such recognition is maintained.*

*The Committee draws the attention of the Interim Commission on Phytosanitary Measures (ICPM) to the Decision on Equivalence (G/SPS/19), and to the above clarification with respect to Paragraph 5 of the Decision. The Committee requests that the ICPM take into consideration the Decision and this clarification in its future work on judgement of equivalence with regard to sanitary measures to address plant pests and diseases.<sup>6</sup>*

6. The consideration by an importing Member of a request by an exporting Member for recognition of the equivalence of its measures with regard to a specific product shall not be in itself a reason to disrupt or suspend on-going imports from that Member of the product in question.

*The Committee agrees that since a request for recognition of equivalence does not in itself alter the way in which trade is occurring, there is no justification for disruption or suspension of trade. If an importing Member were to disrupt or suspend trade solely because it had received a request for an equivalence determination, it would be in apparent violation of its obligations under the SPS Agreement (e.g. under Article 2).*

*At the same time, a request for recognition of equivalence does not impede the right of an importing Member to take any measure it may decide is necessary to achieve its appropriate level of protection, including in response to an emergency situation. However, if the decision to impose some additional control measure were to coincide with consideration by the same Member of a request for recognition of equivalence, this might lead an exporting Member whose trade is affected to suspect that the two events were linked. To avoid any misinterpretation of this kind, the Committee recommends that the importing Member should give an immediate and comprehensive explanation of the reasons for its action in restricting trade to any other Members affected, and that it should also follow the normal or emergency notification procedures established under the SPS Agreement.*

*The Committee notes that this issue has been addressed also in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems<sup>4</sup>, and should encourage the maintenance of such a provision in the further elaboration of specific guidance by the Codex. The*

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<sup>4</sup> The Codex Alimentarius Commission adopted the Guidelines for the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems at its 26<sup>th</sup> Session held in Rome, Italy, from 30 June to 7 July 2003.

<sup>5</sup> The International Committee of the OIE adopted the Guidelines for Reaching a Judgement on Equivalence of Sanitary Measures at its 71<sup>st</sup> General Session held in Paris, France, from 18 to 23 May 2003.

<sup>6</sup> The Interim Commission on Phytosanitary Measures (ICPM) noted the request of the SPS Committee at its 5<sup>th</sup> Session held in Rome, Italy, from 7 to 11 April 2003. The ICPM agreed to include Equivalence and Efficacy of Measures, considered a pre-requisite to an ISPM on Equivalence, as priorities in its work programme. Work on these two issues is currently underway.

*Committee draws the attention of the World Organization for Animal Health (OIE) and the Interim Commission on Phytosanitary Measures (ICPM) to the above clarification with respect to Paragraph 6 of the Decision on Equivalence, and requests that the OIE and the ICPM take this clarification into consideration in their future work on equivalence with regard to sanitary or phytosanitary measures.*<sup>5,6</sup>

7. When considering a request for recognition of equivalence, the importing Member should analyze the science-based and technical information provided by the exporting Member on its sanitary or phytosanitary measures with a view to determining whether these measures achieve the level of protection provided by its own relevant sanitary or phytosanitary measures.

*The Committee notes that conscientious implementation of the Guidelines to Further the Practical Implementation of Article 5.5 (G/SPS/15) will assist Members in determining equivalence.*

*The Committee further notes that the relationship between the level of protection provided by the importing Member's own measures and what it requires from imported products has been explicitly addressed in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems.<sup>4,7</sup> The Committee notes that the OIE Guidelines for Reaching a Judgement of Equivalence of Sanitary Measures also recognizes the importance of facilitating comparison of the exporting and importing Members' measures. The Committee agrees that Members should consider the Codex approach of establishing an objective basis for comparison or the similar OIE approach when determining the equivalence of sanitary measures.*

*The Committee encourages the FAO/WHO Codex Alimentarius Commission and the World Organization for Animal Health to ensure that the recognition of the importance of facilitating comparison of the exporting and importing Members' measures is maintained in any elaboration of guidance by these organizations.*

*The Committee requests that the Interim Commission on Phytosanitary Measures (ICPM) take into consideration the Decision on Equivalence and this clarification in its future work on judgement of equivalence with regard to measures to address plant pests and diseases.*

*The Committee agrees that where the objective basis for comparison, or a similar approach established by a relevant international organization, demonstrates that the level of protection achieved by the importing Member's sanitary or phytosanitary measure differs from its appropriate level of protection, the importing Member should resolve this difference independently of the procedure for determination of equivalence.*

*If the exporting Member demonstrates by way of an objective basis of comparison or similar approach established by a relevant international organization that its measure has the same effect in achieving the objective as the importing Member's measure, the importing Member should recognize both measures as equivalent.*

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<sup>7</sup> The Committee recognizes that the Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems are also relevant in this regard.



8. In accordance with Article 9 of the Agreement on the Application of Sanitary and Phytosanitary Measures, a Member shall give full consideration to requests by another Member, especially a developing country Member, for appropriate technical assistance to facilitate the implementation of Article 4. This assistance may, *inter alia*, be to help an exporting Member identify and implement measures which can be recognized as equivalent, or to otherwise enhance market access opportunities. Such assistance may also be with regard to the development and provision of the appropriate science-based and technical information referred to in paragraph 4, above.

9. Members should actively participate in the ongoing work in the Codex Alimentarius Commission on the issue of equivalence, and in any work related to equivalence undertaken by the World Organization for Animal Health and in the framework of the International Plant Protection Convention. Bearing in mind the difficulties faced by developing country Members to participate in the work of these bodies, Members should consider providing assistance to facilitate their participation.

10. The Committee on Sanitary and Phytosanitary Measures recognizes the urgency for the development of guidance on the judgement of equivalence and shall formally encourage the Codex Alimentarius Commission to complete its work with regard to equivalence as expeditiously as possible.<sup>4</sup> The Committee on Sanitary and Phytosanitary Measures shall also formally encourage the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures to elaborate guidelines, as appropriate, on equivalence of sanitary and phytosanitary measures and equivalence agreements in the animal health and plant protection areas.<sup>5,6</sup> The Codex Alimentarius Commission, the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures shall be invited to keep the Committee on Sanitary and Phytosanitary Measures regularly informed regarding their activities relating to equivalence.

11. The Committee on Sanitary and Phytosanitary Measures shall revise its recommended notification procedures to provide for the notification of the conclusion of agreements between Members which recognize the equivalence of sanitary and phytosanitary measures.<sup>8</sup> Furthermore, the procedures shall reinforce the existing obligation in paragraph 3(d) of Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures for national Enquiry Points to provide information, upon request, on the participation in any bilateral or multilateral equivalence agreements of the Member concerned.

12. Members should regularly provide to the Committee on Sanitary and Phytosanitary Measures information on their experience regarding the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures. In particular, Members are encouraged to inform the Committee on Sanitary and Phytosanitary Measures of the successful conclusion of any bilateral equivalence agreement or arrangement. The Committee on Sanitary and Phytosanitary Measures shall consider establishing a standing agenda item for its regular meetings for this purpose.

13. The Committee on Sanitary and Phytosanitary Measures shall develop a specific programme to further the implementation of Article 4, with particular consideration of the problems encountered by developing country Members.<sup>9</sup> In this respect, the Committee on Sanitary and Phytosanitary Measures shall review this decision in light of the relevant work undertaken by the Codex

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<sup>8</sup> G/SPS/7/Rev.2 and Rev.2/Add.1.

<sup>9</sup> In the light of this paragraph and the decision at the Fourth Ministerial Conference regarding implementation-related issues and concerns (WT/MIN(01)17, paragraph 3.3), the SPS Committee adopted a programme for further work on equivalence at its meeting of 19-21 March 2002 (G/SPS/20). The Committee completed this work programme in March 2004 but agreed that equivalence would be a standing agenda item for its regular meetings.



Alimentarius Commission, the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures, as well as the experience of Members.

14. The Committee on Sanitary and Phytosanitary Measures requests that the General Council take note of this decision.

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## Committee on Sanitary and Phytosanitary Measures

### GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF ARTICLE 5.5

At its meeting of 21-22 June 2000, the Committee adopted<sup>1</sup> the following guidelines called for in Article 5.5 of the Agreement on the Application of Sanitary and Phytosanitary Measures to further the practical implementation of that provision.

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#### INTRODUCTION

Article 5.5 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement") states that:

*With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.*

The following guidelines are intended to provide assistance to Members in the practical implementation of the provisions of Article 5.5 of the SPS Agreement. These guidelines do not add to nor detract from the existing rights and obligations of Members under the SPS Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the Agreement itself. The guidelines are without prejudice to the right of a Member to determine its appropriate level of sanitary and phytosanitary protection against risks to human life or health, or to animal and plant life or health.<sup>2</sup>

The guidelines address the two elements within Article 5.5: (1) the objective of achieving consistency in the application of the concept of the appropriate level of protection and (2) the obligation

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<sup>1</sup> At its meeting, the Committee adopted the guidelines on an ad referendum basis. Members who objected to the adoption of the guidelines were asked to make this known by 14 July 2000. No objections were raised by that date.

<sup>2</sup> "Risk" in the context of the SPS Agreement refers to the *likelihood* that an adverse event (pest or disease) will occur and the *magnitude of the associated potential consequences* on plant or animal life or health of the adverse event, or to the *potential for adverse effects* on human or animal life or health from food-borne risks. See paragraph 4, Annex A of the SPS Agreement.

to avoid arbitrary or unjustifiable distinctions in the levels considered appropriate if such distinctions result in discrimination or a disguised restriction on international trade. The determination of the appropriate level of protection is an element in the decision-making process which logically precedes the selection and use of one or more sanitary or phytosanitary measures. The following guidelines therefore address the application of the concept of the appropriate level of protection, and subsequently its practical implementation.

The comments accompanying the guidelines are designed to facilitate understanding of the guidelines through the provision of examples and further clarifications. These comments and examples are purely illustrative and not intended to be exclusive or complete.

The guidelines will be reviewed periodically and revised as necessary by the SPS Committee in the light of experience gained through the implementation of the SPS Agreement, the use of the guidelines themselves and any pertinent work done by the relevant international standard-setting organizations.<sup>3</sup> The Committee should undertake a first review of the guidelines within 36 months of their adoption by the Committee and thereafter as the need arises.

A. APPLICATION OF THE CONCEPT OF THE APPROPRIATE LEVEL OF PROTECTION

A.1. A Member should indicate the level of protection which it considers to be appropriate with respect to risks to human life or health, to animal life or health or to plant life or health in a sufficiently clear manner so as to permit examination of the extent to which any sanitary or phytosanitary measure achieves that level.

*Such an indication may be contained in a published statement or other text generally available to interested parties. The statement of the appropriate level of protection may be qualitative or quantitative, and should serve to guide its consistent implementation over time, and also to increase the transparency of the sanitary or phytosanitary regime. Examples might include government policy statements with regard to appropriate levels of protection in response to certain risks, or documents on animal health protection objectives or with respect to plant protection. The use of quantitative terms, where feasible, to describe the appropriate level of protection can facilitate the identification of arbitrary or unjustified distinctions in levels deemed appropriate in different situations.*

A.2. A Member should, when determining an appropriate level of protection, either as an overall policy objective or for a specific situation, consider:

- whether there is a difference between the level of protection under consideration and levels already determined by the Member in different situations and, if so,
- whether these differences are arbitrary or unjustifiable, and, if so,
- whether they may result in discrimination or in a disguised restriction on international trade.

*The comparison of levels of protection in different situations requires the existence of sufficient common elements to render them comparable and must be performed on a case-by-case basis. In the case of protection of plant or animal life or health from pests or disease, situations might be compared if they involve either the risk of entry,*

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<sup>3</sup> As indicated in Annex A, paragraph 3.

*establishment or spread of the same or a similar disease, or the risk of the same or similar associated potential biological and economic consequences. In the case of protection of human life or health from specific risks, i.e. food-borne risks, or of animal life or health from risks arising from feedstuffs, situations involving the same type of substance or pathogen, and/or the same type of adverse health effect, could be compared to one another.*

*The determination of whether differences in appropriate levels of protection are arbitrary or unjustifiable depends on the particular case and has to be determined on a case-by-case basis. The establishment of different levels of protection in the face of similar risks in different situations may raise the question as to whether the differences in the levels of protection are arbitrary or unjustifiable.*

*The determination of whether arbitrary or unjustifiable differences in levels of protection established by a Member in different situations do in fact result in discrimination or a disguised restriction on trade should be examined in the context of the circumstances of each case, including the potential effects on international trade. Although no precise definition of "discrimination or a disguised restriction on international trade" currently exists, cumulative occurrence of the following "warning signals" could indicate the existence of discrimination or a disguised restriction on trade:*

- substantial differences in the levels of protection considered to be appropriate in different situations;*
- the existence of arbitrary or unjustifiable differences in the levels of protection considered by a Member as appropriate in different situations;*
- the absence of a scientific justification for a sanitary or phytosanitary measure applied allegedly to achieve the appropriate level of protection, or the fact that a measure is not based on a risk assessment as appropriate to the circumstances (either because there is no risk assessment or because there is an insufficient risk assessment).*

A.3. A Member should establish clear and effective communication and information flows within and between the authorities responsible for the determination of appropriate levels of protection.

*An important element in seeking to ensure that decisions on an appropriate level of protection meet the provisions of Article 5.5 is information and communication. The authorities responsible for the preparation and implementation of such decisions should be aware of relevant decisions taken by that Member in other cases, and particularly in situations comparable to the one at hand.*

A.4. To avoid arbitrary or unjustifiable differences in the level of protection a Member considers to be appropriate in different situations, a Member should compare any proposed decision on the level of protection in a particular situation with the level it has previously considered or is considering to be appropriate in situations which contain sufficient common elements so as to render them comparable with regard to human life or health, to animal life or health, or to plant life or health.

*It can be useful to compare a proposed appropriate level of protection with previous decisions, including those that might have been taken in an ad hoc fashion, to ensure*

*that any differences in levels of protection applied in a similar situation are justifiable and would not result in discrimination or a disguised restriction on international trade. If differences are observed in comparable situations, either the proposed level may need to be modified, or the level of protection previously determined may need to be revised in light of the Member's current views on its appropriate level of protection, or a combination of the two.*

*What a Member is comparing are the levels of protection against the risks posed by potential hazards to human, animal or plant life or health. Risk in the context of the SPS Agreement refers to the likelihood that an adverse event (pest or disease) will occur **and** the magnitude of the associated potential consequences on plant or animal life or health of the adverse event, or to the potential for adverse effects on human or animal life or health from food-borne risks. (See paragraph 4, Annex A of the SPS Agreement.) Accordingly, categorizing risks as "similar" must include a comparison of both the relevant likelihood and the corresponding consequences. To facilitate comparison of levels of protection considered appropriate in different situations, Members may wish to categorize the various risks they are examining into groups of what they consider to be similar. (See also the first comment to guideline A2.)*

*The comparison of the levels of protection considered appropriate in one situation with those considered appropriate in another situation can be facilitated if the potential damage is expressed in common terms, whether qualitative or quantitative. Where feasible, use of quantitative terms and/or common units can facilitate comparisons.*

A.5. In determining a new or modified appropriate level of protection, a Member should review its previous decisions regarding appropriate levels of protection in the light of the objectives and obligations of Article 5.5, taking into account current decisions and developments.

*In undertaking this review, a Member may wish to give priority to the review and revision, as necessary, of those decisions which most substantially deviate from the objectives and obligations of Article 5.5 and which may have the most negative impact on international trade.*

*Unless changes are made at the same time to all its comparable decisions on appropriate levels of protection, a Member may find it difficult to avoid (at least temporary) unjustifiable differences in levels of protection.*

*A Member should review its previous decisions on appropriate levels of protection at suitable intervals.*

A.6. In determining a new or modified appropriate level of protection a Member may find it helpful to examine any relevant international standards, guidelines or recommendations, or decisions taken by other Members facing similar risks and situations.

*Notwithstanding that it is the right of each Member to determine its appropriate level of protection and that there is no obligation for a Member to harmonize its level of protection with that of other Members, comparisons with the level of protection other Members have considered appropriate when addressing similar risks and situations may assist a Member in making its own decision.*

*Likewise, significant differences between the level of protection which would result from the application of the relevant international standard, guideline or recommendation*

*and the level of protection which a Member is considering may prompt the Member to re-consider its proposed level of protection.*

A.7. A Member may consider seeking expert advice to contribute to its decision-making process with regard to the determination of a new or modified appropriate level of protection.

*Advice may be sought from recognized, qualified experts, and could include commenting on any unjustifiable distinctions in levels of protection, potential discriminatory trade effects or other aspects related to consistency in the application of its appropriate level of protection. A Member may seek assistance from the relevant international standard-setting organizations in identifying appropriate experts.*

A.8. A Member should clearly identify those situations which it considers justify its acceptance exceptionally of a lower level of protection for human health specifically with respect to risks to which people voluntarily expose themselves.

*Reasons for a significant difference in a proposed or accepted level of protection for human health may, in exceptional circumstances, include a risk which humans voluntarily accept. Such circumstances might arise with respect to traditional foods or some other products for which consumers knowingly accept a higher risk than that generally considered to be appropriate for food products.<sup>4</sup>*

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## B. PRACTICAL IMPLEMENTATION OF THE CONCEPT OF AN APPROPRIATE LEVEL OF PROTECTION

The SPS Agreement does not contain explicit provisions which oblige a Member to determine its appropriate level of protection, although there is an implicit obligation to do so. In practice, and for various reasons, Members are not always able to indicate precisely their appropriate level of protection. In such cases, the appropriate level of protection may be determined on the basis of the level of protection reflected in the sanitary or phytosanitary measures in place. Therefore, to further the practical implementation of this provision, the following guidelines address the selection and use of measures. This is without prejudice to the other provisions of the SPS Agreement which relate to measures, which the Committee may decide to address separately.

B.1. A Member should establish clear and effective communication and information flows within and between the authorities responsible for the determination of appropriate levels of protection, and those responsible for the selection and implementation of sanitary or phytosanitary measures designed to achieve the appropriate level of protection.

*Since the concept of appropriate level of protection is applied in practice through sanitary or phytosanitary measures, communication and transparency between the government authorities responsible for the selection and implementation of sanitary or phytosanitary measures and those responsible for the determination of the appropriate level of protection is an important element in enhancing consistency.*

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<sup>4</sup> Examples which were identified during the negotiation of this provision include the consumption of alcoholic beverages, or substantial consumption of some traditional foods such as smoked fish, or of varieties of fish known to be toxic.

B.2. A Member should establish common approaches or consistent procedures for use by the authorities assessing risks and evaluating the measures which might be applied to achieve the desired levels of protection. In particular, a common approach should be developed with respect to risks affecting human life or health, a common approach for consideration of risks to animal life or health, and a common approach for risks to plant life or health.

*Clearly identified, comprehensive and consistent procedures for assessing risks and for evaluating measures to reduce risk to acceptable levels will assist a Member to be more consistent in the application of its appropriate level of protection.*

*What a Member is comparing are the measures against the risks posed by potential hazards to human, animal or plant life or health. Risk in the context of the SPS Agreement refers to the likelihood that an adverse event (pest or disease) will occur **and** the magnitude of the associated potential consequences on plant or animal life or health of the adverse event, or to the potential for adverse effects on human or animal life or health from food-borne risks. (See paragraph 4, Annex A of the SPS Agreement.) Accordingly, categorizing risks as "similar" must include a comparison of both the relevant likelihoods and the corresponding consequence. To facilitate comparison of levels of protection considered appropriate in different situations, Members may wish to categorize the various hazards they are examining into groups of what they consider to be similar.*

*To the extent possible, risk should be assessed using the principles and procedures developed by the relevant international standard-setting organizations, taking into account the nature of the hazards in question.*

B.3. A Member should compare any proposed measure intended to achieve the appropriate level of protection in a particular situation with other sanitary or phytosanitary measures it has taken, or is considering, with regard to human life or health, to animal life or health, and plant life or health in situations which present sufficient common elements so as to render them comparable.

*Since the concept of an appropriate level of protection is applied through the selection and implementation of a sanitary or phytosanitary measure (or measures), such a comparison can be useful to ensure the consistency of the proposed measure with any previous measures designed to achieve the same level of protection in situations which present sufficient common elements so as to render them comparable.*

B.4. A Member should routinely review existing measures applied to achieve its appropriate level of protection in accordance with the objectives of guideline A.5, taking also into account current decisions and developments.

*In undertaking this review, a Member may wish to give priority to the review and revision, as necessary, of the measures applied to achieve the appropriate levels of protection reviewed in accordance with guideline A.5.*

B.5. In considering a measure to achieve an appropriate level of protection in a particular situation, a Member should determine whether a relevant international standard, guideline or recommendation exists, and if it does, whether adoption of it would achieve the Member's appropriate level of protection.



*Comparisons with the manner in which an international standard, guideline or recommendation would address a particular risk may assist a Member in clarifying its own decision. Significant differences in the measure applied by a Member to address assessed risk compared to the measures that would result from the application of a relevant international standard, guideline or recommendation, may encourage the Member to reconsider whether it is acting in accordance with its obligations under the SPS Agreement.*

B.6. In considering a proposed measure to achieve its appropriate level of protection in a particular situation, a Member may find it helpful to examine measures applied by other Members facing similar risks and situations.

*Notwithstanding that there is no obligation for a Member to harmonize its measures with those of other Members, significant differences in the measures applied by a Member in order to address a particular risk compared to the measures applied by other Members facing similar risks and situations, and in particular measures which are less restrictive of trade, may prompt the Member to reconsider whether it is acting consistently with its obligations under the SPS Agreement. The Member should in particular compare its proposed measure with those applied by other Members seeking a similar level of protection from risks.*

B.7. A Member may consider seeking expert advice on the selection and implementation of sanitary and phytosanitary measures to achieve its appropriate level of protection.

*Advice may be sought from recognized, qualified experts, and could include commenting on any potential discriminatory trade effects arising from specific sanitary and phytosanitary measures. A Member may seek assistance from the relevant international standard-setting organizations in identifying appropriate experts.*

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**Committee on Sanitary and Phytosanitary Measures**

**GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF  
ARTICLE 6 OF THE AGREEMENT ON THE APPLICATION OF  
SANITARY AND PHYTOSANITARY MEASURES**

At its meeting of 2-3 April 2008, the Committee adopted<sup>1</sup> the following guidelines to further the practical implementation of Article 6.

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The Committee on Sanitary and Phytosanitary Measures ("the Committee"),

*Having regard* to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement");

*Recalling* that in its first review of the operation and implementation of the Agreement, concluded in 1999, the Committee, while noting that adaptation to regional conditions, including the recognition of pest- or disease-free areas or areas of low pest or disease prevalence, was of significant importance for trade in agricultural products, also noted that Members faced difficulties in the implementation of Article 6 of the Agreement;

*Recalling* that at its June 2003 meeting the Committee initiated substantive discussion of problems linked with the implementation of the provisions for recognition of pest- or disease-free areas and areas of low pest or disease prevalence in Article 6;

*Recalling* that in its second review of the operation and implementation of the Agreement, concluded at its June 2005 meeting, the Committee agreed that it should develop a proposal for a decision on the effective application of Article 6, taking as the point of departure the various proposals submitted by Members and the discussions in the Committee;

*Taking into account* the work of the OIE and the IPPC in developing international standards, guidelines and recommendations to further the practical implementation of Article 6;

*Recognizing* the constructive manner in which the OIE and IPPC have responded to requests from the Committee for technical and administrative guidance;

*Decides as follows:*

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<sup>1</sup> At its meeting, the Committee adopted the guidelines on an ad referendum basis. Members who objected to the adoption of the guidelines were asked to make this known by 15 May 2008. No objections were raised by that date.

1. These guidelines are intended to provide assistance to Members in the practical implementation of Article 6 by improving transparency, exchange of information, predictability, confidence and credibility between importing and exporting Members. These guidelines are not intended to duplicate the technical and administrative guidance provided to Members by the IPPC and OIE.

2. These guidelines do not add to nor detract from the existing rights and obligations of Members under the Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the Agreement itself. These guidelines are without prejudice to the right of a Member to determine its appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health.

3. These guidelines will be reviewed periodically and revised as necessary by the Committee in light of experience gained through the implementation of the Agreement and the use of these guidelines themselves. The Committee should undertake a first review of these guidelines within 36 months of their adoption by the Committee and thereafter as the need arises.

## **I. GENERAL CONSIDERATIONS**

4. Importing Members should publish the basis for recognition of pest- or disease-free areas and areas of low pest or disease prevalence and a description of the general process used, including the information generally required to evaluate such requests and a contact point responsible for requests for recognition of pest-or disease-free areas or areas of low pest or disease prevalence.

5. Members should proceed with a recognition process without undue delay.

6. The process should be applied without discrimination between Members.

7. Members should endeavour to maintain transparency in all aspects of the recognition process.

8. Any determination under Article 6 should consider the strength and credibility of the veterinary or phytosanitary infrastructure of the exporting Member in accordance with the importing Member's appropriate level of sanitary or phytosanitary protection. The veterinary or phytosanitary authorities of the exporting Member should be able to demonstrate their ability to maintain freedom from specified pests or diseases to encourage confidence on the part of the importing Member.

9. The importing Member should take into account any relevant knowledge of and prior experience with the authorities of the exporting Member.

10. Where an exporting Member resubmits a request for recognition of pest- or disease-free areas or areas of low pest or disease prevalence, the importing Member should take into consideration all information previously provided, if verification has been provided by the exporting Member that the information remains valid.

11. If an exporting Member submits multiple requests to the importing Member, the exporting Member should identify its priority among these requests and this will be taken into account by the importing Member.

12. Upon request from the exporting Member, an importing Member should provide information on the stage of the exporting Member's request within its evaluation process.

## II. INITIAL DISCUSSIONS

13. The importing Member should, upon request, enter into discussions with the exporting Member with the aim of clarifying the importing Member's general process and the information generally required to facilitate a request for the recognition of a pest- or disease-free area or area of low pest or disease prevalence.

14. In this regard, the discussions should, *inter alia* clarify:

- (a) the general process used by the importing Member in the evaluation of requests for the recognition of pest- or disease-free areas and areas of low pest or disease prevalence;
- (b) the general information required to evaluate the request;
- (c) the process for the exchange of information relating to the request, including a contact point, and a language or languages to be used, which should include at least one of the official languages of the WTO; and
- (d) if possible, an anticipated timeframe for completion of the recognition process.

15. The discussions should be undertaken within a reasonable period of time, and normally within 90 days of a request or as otherwise mutually decided.

16. The clarification(s) made in the course of the discussions should, if necessary, be appropriately recorded by the importing Member and transmitted to the exporting Member to avoid any misunderstandings of the general process.

17. When an importing Member has limited resources to undertake work on new requests for recognition, discussions may be postponed for a reasonable period of time. In deciding whether to postpone discussions, the importing Member should take into account as relevant factors, *inter alia*:

- (a) the number of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence it has received;
- (b) the priority of the exporting Member in situations where it has submitted multiple requests, and
- (c) capacity to undertake work on new requests.

18. When an importing Member has postponed discussions in accordance with paragraph 17 of this decision, it should inform the exporting Member and provide an explanation in writing for the delay.

## III. TYPICAL ADMINISTRATIVE STEPS IN THE RECOGNITION PROCESS

19. While Members have the sovereign right to determine their own processes for the evaluation of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence, a process for making a determination under Article 6 typically involves a number of steps such as the following.

*Step A: Exporting Member requests information about procedures and/or recognition*

20. The exporting Member requests information about the importing Member's requirements and procedures for the evaluation of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence. An exporting Member may either request information about an importing Member's requirements and procedures prior to formally requesting recognition of an area as a pest- or disease-free area or an area of low pest or disease prevalence, or at the time it requests such recognition. In the latter case, the exporting Member at the same time communicates its sanitary or phytosanitary status to relevant trading partners along with a copy of its request for recognition of an area as a pest- or disease-free area or an area of low pest or disease prevalence.

21. The request for the recognition of a pest- or disease-free area or an area of low pest or disease prevalence may be accompanied by supporting scientific and technical information, including reference to relevant international recognition of the area as a pest- or disease-free area or an area of low pest or disease prevalence. In the interests of transparency, the exporting Member should indicate the organization and an individual within the organization to act as a contact point for the request, and request that the importing Member do the same.

*Step B: Importing Member explains requirements*

22. The importing Member explains its requirements and procedures for the evaluation of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence. The importing Member may, for example, request answers to a specific questionnaire.

*Step C: Exporting Member provides documentation*

23. The exporting Member sends the documentation demonstrating compliance with the requirements laid down by the importing Member. Where applicable, the exporting Member provides supporting information showing that the procedures it used to identify that area as pest- or disease-free or of low pest or disease prevalence are based on an international standard, guideline or recommendation. The exporting Member also supplies any further information that could help the importing Member to make a determination.

*Step D: Importing Member evaluates the documentation and, if necessary, requests additional information*

24. The importing Member acknowledges the receipt of documentation provided by the exporting Member. The importing Member evaluates the documentation provided by the exporting Member and provides feedback to the exporting Member regarding whether the documentation is in order. In addition, the importing Member may indicate the necessity of additional information or an on-site verification, where justified, based on the results of the ongoing evaluation.

*Step E: Exporting Member responds to feedback*

25. The exporting Member provides any clarifications, additions or modifications requested by the importing Member.

*Step F: Importing Member evaluates any additional information and, if required, seeks further clarifications*

26. The importing Member evaluates any additional information provided by the exporting Member and provides further feedback to the exporting Member in accordance with step D. If further clarification is needed steps D and E are repeated.

*Step G: Importing Member conducts on-site verification*

27. If applicable, the importing Member carries out on-site verification in order to verify the information provided in support of the request for recognition of a pest- or disease-free area or an area of low pest or disease prevalence. Such inspections may consider, *inter alia*, the administrative structure of the regulatory bodies concerned and the programmes they implement with a view to prevention, control and eradication of pests and diseases. The strength and credibility of the veterinary or phytosanitary infrastructure of the exporting region(s) would also be part of this evaluation.

28. The importing Member provides a report on the on-site verification to the exporting Member.

*Step H: Exporting Member responds to inspection report*

29. If the inspection report so requests, the exporting Member provides further clarifications, additions or modifications.

*Step I: Importing Member makes a determination*

30. Where its evaluation of the evidence provided by the exporting Member results in a decision by the importing Member not to recognize the pest- or disease-free area or area of low pest or disease prevalence, the importing Member provides to the exporting Member the technical grounds for the determination, so that, if appropriate, the exporting Member may modify and adapt its system with a view to future requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence.

31. Where its evaluation of the evidence provided by the exporting Member results in recognition of the pest- or disease-free area or area of low pest or disease prevalence, the importing Member takes the necessary administrative or legal steps to facilitate trade from the exporting Member. If necessary, the importing Member modifies existing sanitary or phytosanitary regulations or elaborates new ones to support its recognition of the area in question as a pest- or disease-free area or an area of low pest or disease prevalence. In addition, the importing Member may circulate any modified or new regulation for public comment.

#### **IV. EXPEDITED PROCESS**

32. The importing Member may determine that an expedited process can be used to evaluate a request for recognition of pest- or disease-free areas or areas of low pest or disease prevalence. An expedited process may involve exclusion of one or more stages or some parts of a stage of the importing Member's general process for the recognition of pest- or disease-free or areas of low pest or disease prevalence. In determining the possibility of applying an expedited process, the importing Member should take into account factors including *inter alia*:

- (a) when there has been official recognition of an area as a pest- or disease-free area or an area of low pest of disease prevalence by a relevant international organization; or
- (b) when there has been an outbreak in an area previously recognized, and suspended, by the importing Member as a pest- or disease-free area or an area of low pest or disease prevalence and which has been restored to its former status as determined by the importing Member in accordance with the relevant international standards, guidelines or recommendations; or

- (c) when the infrastructure and operation of the responsible veterinary or phytosanitary service of the exporting Member are familiar to the importing Member as a result of existing trade relations; or
- (d) when there has been no previously notified occurrence of the pest or disease and the importing Member agrees that the surveillance procedures and activities implemented by the exporting Member have shown the non-existence thereof, the territory of the Member in question shall be considered free of that pest or disease.

## **V. MONITORING**

33. The Committee will monitor the implementation of Article 6 under the standing agenda item at its regular meetings. In this regard, Members are encouraged to inform the Committee when:

- (a) a request for recognition of pest- or disease-free area or area of low pest or disease prevalence is made; and/or,
- (b) a determination on whether to recognize a pest- or disease-free areas or areas of low pest or disease prevalence is made.

34. Members are also encouraged to provide information on their experiences in the implementation of Article 6 and to provide relevant background information on their decisions to other interested Members upon request.

35. The Secretariat should prepare an annual report to the Committee on implementation of Article 6 based on the information provided by Members under paragraphs 33 and 34.

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**Committee on Sanitary and Phytosanitary Measures**

**RECOMMENDED PROCEDURES FOR IMPLEMENTING  
THE TRANSPARENCY OBLIGATIONS OF THE SPS AGREEMENT (ARTICLE 7)**

*Revision<sup>1</sup>*

The term transparency in the context of the World Trade Organization (WTO) is used to signify one of the fundamental principles of its agreements: the aim is to achieve a greater degree of clarity, predictability and information about trade policies, rules and regulations of Members. In implementing this concept Members use notifications. Under the SPS Agreement, notifications are used to inform other Members about new or changed regulations that may significantly affect their trading partners.<sup>2</sup> Transparency under the SPS Agreement also includes answering reasonable questions, and publishing regulations.

These procedures have been developed to assist Members fulfil their transparency obligations under Article 7 and Annex B of the SPS Agreement regarding the notification of SPS regulations, answering information requests under the National Enquiry Point system and publishing regulations.

These guidelines do not add to nor detract from the existing rights and obligations of Members under the SPS Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the SPS Agreement itself.

**1 IDENTIFICATION OF THE NATIONAL NOTIFICATION AUTHORITY AND OF THE NATIONAL ENQUIRY POINT**

1.1. In accordance with paragraph 10 of Annex B of the SPS Agreement, Members are obliged to designate "a single central government authority" as responsible for the implementation at the national level of the provisions concerning notification procedures. Paragraph 3 of Annex B of the SPS Agreement indicates that each Member "shall ensure that one enquiry point exists" which is responsible for the provision of answers to all reasonable questions as well as the provision of relevant documents.<sup>3</sup>

1.2. When a Member's National Notification Authority or National Enquiry Point has been designated, or changed, the WTO Secretariat should be informed. Contact information is available through the SPS Information Management System (<http://spsims.wto.org>). It is useful to provide the following contact information so that they can be included in the lists:

- Contact name;
- Name of institution;
- Postal address/physical address;
- Phone;

<sup>1</sup> This revision of the Recommended Transparency Procedures does not include any substantive changes to the text. It incorporates updates based on changes in the online tools (SPS IMS, SPS NSS and ePing) and the notification templates. It also includes text and the notification format contained in the Decision on Special and Differential Treatment (G/SPS/33/Rev.1) to consolidate all notification recommendations into one document.

<sup>2</sup> The SPS Agreement uses the terms 'measures' and 'regulations' somewhat interchangeably when referring to any sanitary or phytosanitary measure such as laws, decrees, or ordinances applied to protect human, animal or plant life or health as defined under paragraph 1 of Annex A to the SPS Agreement.

<sup>3</sup> In practice, a number of Members have decided to designate the same entity as the Enquiry Point and the National Notification Authority while others have found it more functional to establish more than one Enquiry Point to cover the areas of food safety, animal and plant health.

- Fax;
- E-mail; and
- Website address.

## **2 RECOMMENDED NOTIFICATION PROCEDURES**

2.1. Members should follow these procedures when notifying regulations as required in paragraphs 5 or 6 of Annex B of the SPS Agreement. The form for regular notifications (see Annex A-1 of these procedures) should be used for notifications in accordance with paragraph 5 of Annex B of the SPS Agreement, whereas the form for emergency notifications (see Annex B-1 of these procedures) should be used for notifications as provided for in paragraph 6 of Annex B of the SPS Agreement.

### **2.1 Application of Annex B, paragraph 5 (preamble part) of the SPS Agreement**

2.2. In accordance with Article 7 and paragraph 5 of Annex B of the SPS Agreement, Members are required to notify all regulations the content of which is "not substantially the same as the content of an international standard, guideline or recommendation", if such regulations are expected to have a significant effect on trade of other Members.

2.3. Members are encouraged to notify all regulations that are based on, conform to, or are substantially the same as an international standard, guideline or recommendation, if they are expected to have a significant effect on trade of other Members.<sup>4</sup>

2.4. For the purposes of Annex B, paragraphs 5 and 6 of the SPS Agreement, the concept of "significant effect on trade of other Members" may refer to the effect on trade:

- of one sanitary or phytosanitary regulation only or of various sanitary or phytosanitary regulations in combination;
- in a specific product, group of products or products in general; and
- between two or more Members.

2.5. To assess whether the sanitary or phytosanitary regulation may have a significant effect on trade, the Member concerned should consider relevant available information such as: the value or other importance of imports to the importing and/or exporting Members concerned, whether from other Members individually or collectively; the potential development of such imports; and difficulties for producers in other Members, particularly in developing country Members, to comply with the proposed sanitary or phytosanitary regulations. The concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

### **2.2 Timing of notifications**

2.6. Paragraph 5(a) of Annex B of the SPS Agreement obliges Members to publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with a proposal to introduce a particular regulation. This is useful so that other Members are better able to assess and if necessary, comment on the proposed measures. Members may wish to provide information to the SPS Committee regarding expected modifications to their national regulatory systems.

2.7. Paragraph 5(b) of Annex B of the SPS Agreement obliges Members to submit a notification at an early stage when amendments can still be introduced and comments taken into account. This should be done when a draft of the complete text of a regulation is available.

2.8. Paragraph 5(d) of Annex B of the SPS Agreement obliges Members to allow a reasonable period of time for submission, discussion and consideration of comments. Members should normally allow a period of at least sixty calendar days for comments, except for proposed

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<sup>4</sup> The Secretariat should provide an annual report on the level of implementation of the transparency provisions of the SPS Agreement and of the recommended transparency procedures contained in this document, including, *inter alia*, an overview of those notifications which relate to the adoption of international standards, guidelines and recommendations by Members.

measures which facilitate trade<sup>5</sup> and those which are substantially the same as an international standard, guideline, or recommendation. Where domestic regulatory mechanisms allow, the 60-day comment period should normally begin with the circulation of the notification by the WTO Secretariat. Any Member which is able to provide a time-limit beyond sixty days is encouraged to do so.

2.9. A notification should be made well before the entry into force of the relevant measure, except when urgent problems of health protection arise or threaten to arise for the Member concerned. In accordance with paragraph 6(a) of Annex B of the SPS Agreement, any regulation brought into force in urgent circumstances is required to be notified immediately and a rationale for the urgent action provided.

2.10. The late notification of a measure already in force does not in and of itself constitute sufficient reason for the use of the emergency format. When urgent problems of health protection are not involved, late notifications should be made using the regular format and consideration should still be given to all comments received, in accordance with paragraph 5(d) of Annex B of the SPS Agreement.

### **2.3 Requesting documents related to a notification**

2.11. Members requesting documents related to a notification should provide all the information necessary to identify the documents and in particular the WTO SPS notification number to which the requests refer.

2.12. When requesting an electronic transmission of documents from another Member, Members should indicate which electronic formats they are able to receive, including compatible versions.

### **2.4 Providing documents related to a notification**

#### **2.4.1 Address of body supplying the documents**

2.13. Members should indicate under point 13 of the WTO notification format the full address of the body responsible for supplying the relevant documents if that body is not the National Notification Authority or the National Enquiry Point. Where the relevant documents are also available from a website, the website address or a specific hyperlink to these documents should be provided.

#### **2.4.2 Responding to requests**

2.14. Members are obliged to provide upon request to other Members copies of the proposed regulation in accordance with paragraph 5(c) of Annex B of the SPS Agreement. Documents requested should normally be provided within five working days. If this is not possible, the request for documentation or information should be acknowledged within that period and an estimate given of the time required to provide the requested documentation. With a view to facilitating the timely provision of comments on notifications, Members are strongly encouraged to comply with the five-day deadline.

2.15. Documents supplied in response to a request should be identified with the WTO SPS notification number to which the request refers.

2.16. Members should use e-mail facilities to the extent possible in responding to requests for documentation or information. Members are encouraged to publish their sanitary or phytosanitary measures on the Internet, to facilitate the supply of documents, and to provide the address of relevant websites.

2.17. Members may also submit an electronic version of the text of the notified draft regulation together with the notification format. These texts are stored on a WTO server and are accessible

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<sup>5</sup> Trade facilitating measures could include, *inter alia*, the raising of the level of maximum residue limits of certain pesticides in certain products, the lifting of a ban on imports, or the simplification or elimination of certain certification/approval procedures.

through a hyperlink in the notification format.<sup>6</sup> Information about the provision, storage, and language of attachments to SPS notifications is contained in Annex C of these procedures.

### **2.4.3 Acknowledging receipt of documents**

2.18. The Member requesting documents relating to a notification should acknowledge receipt of the documents provided.

### **2.4.4 Translation of documents**

2.19. When a translation of a relevant document exists or is planned, this fact should be indicated on the WTO notification form next to the title of the document. If only a translated summary exists, the fact that such a summary is available should be similarly indicated.

2.20. If a translation of a document or summary exists in the language of the requesting Member, or, as the case may be, in the WTO working language used by the requesting Member, it should be automatically sent with the original of the document requested.

2.21. Where documents are not available in a WTO working language, developed country Members shall, upon request, supply a translation of the document, or in case of voluminous documents, a translation of a summary of the document, in a WTO working language in accordance with paragraph 8 of Annex B of the SPS Agreement.

2.22. When a Member seeks a copy of a document relating to a notification which does not exist in that Member's WTO working language, the notifying Member should advise the requesting Member of other Members that have requested, as of that date, a copy of the document. The Member seeking a copy of a document relating to a notification may contact other Members in order to determine whether the latter are prepared to share any translation that they have or will be making.

2.23. Any Member possessing an unofficial translation of a document relating to a notification should inform the notifying Member of the existence of the unofficial translation and should submit to the Secretariat a supplement to the original notification submitted by a Member. The supplement should indicate the address for requesting a copy or the website address where the unofficial translation can be found. The format of the supplement can be found in Annex D of these procedures. Neither the Secretariat nor the Member providing the unofficial translation can be held responsible for the accuracy or quality of these translations.<sup>7</sup>

## **2.5 Handling of comments on notifications**

2.24. Each Member should notify the WTO Secretariat of the authority or agency (e.g. its National Notification Authority) which it has designated to be in charge of handling comments received, and of any change and/or modification of such authority or agency.

2.25. Members submitting comments on a notified draft regulation should provide them without unnecessary delay to the authority designated to handle the comments, or to the National Notification Authority if no other designation is made.

2.26. A Member receiving comments through the designated body should, without further request:

- i. acknowledge the receipt of such comments;
- ii. explain within a reasonable period of time, and at the earliest possible date before the adoption of the measure, to any Member from which it has received comments, how it will take these comments into account and, where appropriate, provide additional relevant information on the proposed sanitary or phytosanitary regulations concerned;
- iii. provide to any Member from which it has received comments, a copy of the corresponding sanitary or phytosanitary regulations as adopted or information that no corresponding sanitary or phytosanitary regulations will be adopted for the time being.

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<sup>6</sup> See G/SPS/GEN/818.

<sup>7</sup> See G/SPS/GEN/487 for further information on this mechanism.

2.27. A Member receiving comments through the designated body may consider making available to other Members, where possible, non-confidential comments and questions it has received and answers it has provided, or summaries thereof, preferably via electronic means.

2.28. Members should grant requests for extension of the comment period wherever practicable, in particular with regard to notifications relating to products of particular interest to developing country Members, where there have been delays in receiving and translating the relevant documents or where there is a need for further clarification of the measure notified. A 30-day extension should normally be provided and notified to the WTO (see section below on Addenda).

2.29. Members are also encouraged to use the "Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members" (G/SPS/33/Rev.1).<sup>8</sup>

## 2.6 Addenda, revisions and corrigenda

2.30. In addition to their original notifications, Members can also provide supplementary information in three different forms:

- An addendum is used to provide additional information or changes to an original notification. A Member may wish to indicate on the addendum if the final regulation has been substantially modified from the notified proposal;
- A corrigendum is used to correct an error in an original notification such as an incorrect address detail; or
- A revision is used to replace an existing notification.

2.31. Any addendum or corrigendum should be read in conjunction with the original notification.

### 2.6.1 Addenda

2.32. Members should notify changes in the status of a notified SPS regulation. The issuance of an addendum allows Members to track the status of an SPS regulation via its unique notification number. Addenda to SPS notifications should be made in a number of circumstances, such as:

- if the comment period has been extended;
- when a proposed regulation is either adopted, published or comes into force, if the relevant dates have not been provided in the original notification or have been changed. Members are strongly encouraged to follow this recommendation and inform other Members in a timely manner. A Member may wish to indicate on the addendum if the final regulation has been substantially modified from the notified proposal;
- if the content of a previously notified draft regulation is partially changed, or if the scope of application of the existing notification is modified, either in terms of Members affected or products covered. Such an addendum should provide for a new 60-day comment period unless the notified change is of a trade-facilitating nature or is negligible. Where domestic regulatory mechanisms allow, the 60-day comment period should normally begin with the circulation of the notification by the WTO Secretariat;
- if a proposed regulation is withdrawn;
- in the case of an emergency notification, an addendum should also be submitted if the period of application of the existing notification is extended.

2.33. An addendum should:

- i. briefly recap what was notified, when and what it was about - this is a practical requirement, and reduces the need for Members to have to go back to the original notification to check what it was about;
- ii. specify what change has been made and why - briefly state why the information, dates, etc. have been changed; and
- iii. restate the comments deadline, even if it has not been changed - as a reminder to Members that if they wish to comment it must be done by this date.

2.34. A form for making an addendum is available in Annex A-2 of these procedures for regular notifications and in Annex B-2 for notifications of emergency measures.

<sup>8</sup> See Section 2.9 for more information on S&D notifications.

### **2.6.2 Revisions**

2.35. Revisions replace an existing notification. Revisions should be submitted, for example, if a notified draft regulation was substantially redrafted or if a notification contained a large number of errors. A Member should provide a further period for comments on the revised notification, normally 60 calendar days, unless the notified change is of a trade-facilitating nature or would have a negligible effect on trade. Where domestic regulatory mechanisms allow, the 60-day comment period should normally begin with the circulation of the revised notification by the WTO Secretariat.

2.36. A form for making a revision is available in Annex A-3 of these procedures for regular notifications and Annex B-3 for notifications of emergency measures.

### **2.6.3 Corrigenda**

2.37. Members should inform the Secretariat of any error(s) contained in their original notification. The Secretariat will issue a corrigendum accordingly.

2.38. A form for making a corrigendum is available in Annex A-4 of these procedures for regular notifications and Annex B-4 for notifications of emergency measures.

## **2.7 Regulations that contain both SPS and TBT measures**

2.39. When a regulation contains both SPS and TBT measures, it should be notified according to both the SPS and TBT Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement (e.g., a food safety measure) and which parts fall under the TBT Agreement (e.g., quality or compositional requirements).

## **2.8 Notification of determination of the recognition of equivalence of sanitary or phytosanitary measures<sup>9</sup>**

2.40. In accordance with the Decision on Equivalence (G/SPS/19/Rev.2), a Member which has made a determination recognizing the equivalence of sanitary or phytosanitary measures of another Member or Members shall notify other Members through the Secretariat of the measure(s) recognized to be equivalent and of the products affected by this recognition.

2.41. For the purposes of this notification, equivalence is defined to be the state wherein sanitary or phytosanitary measures applied in an exporting Member, though different from the measures applied in an importing Member, achieve, as demonstrated by the exporting Member and recognized by the importing Member, the importing Member's appropriate level of sanitary or phytosanitary protection. A determination of the recognition of equivalence may be with respect to a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis.

2.42. Notification should also be made of significant variations to existing equivalence arrangements, including their suspension or rescission.

2.43. See Annex E of these procedures for further information on the format for the notification of determination of the recognition of equivalence of sanitary or phytosanitary measures.

## **2.9 Notification of Special and Differential Treatment (S&D Notification)**

2.44. In accordance with the Decision on Special and Differential Treatment (G/SPS/33/Rev.1), when an importing Member decides on whether and how special and differential treatment may be provided in response to a specific request, that Member should inform the SPS Committee.

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<sup>9</sup> At its meeting of 25-26 June 2002, the Committee adopted a format and recommended procedures for the notification of determination of the recognition of equivalence of sanitary or phytosanitary measures which can be found in G/SPS/7/Rev.2/Add.1. This document was incorporated into the previous Revision (G/SPS/7/Rev.3).

2.45. This may be done in writing and/or under the agenda item on Special and Differential Treatment at any meeting of the SPS Committee. Information provided in writing should be submitted to the WTO Secretariat as an addendum to the original notification concerning the measure. The addendum shall indicate: (1) the name(s) of Member(s) that requested special and differential treatment; (2) if special and differential treatment was provided, the form of such treatment; and (3) if not provided, the addendum shall indicate why special and differential treatment was not provided and whether technical assistance or any other solution was found to address the identified concern.

2.46. A form for making an S&D notification as an addendum to the original notification is available in Annex A-5 of these procedures.

## **2.10 Completed notifications**

2.47. Notifications should be submitted, preferably by using the SPS NSS platform (<http://nss.wto.org/spsmembers>) or by e-mail from the National Notification Authority to the Central Registry of Notifications (CRN) at the WTO. The e-mail address is: [crn@wto.org](mailto:crn@wto.org).

2.48. Electronic copies of all notification formats can be downloaded from the WTO website at: [http://www.wto.org/english/tratop\\_e/sps\\_e/sps\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/sps_e.htm).

2.49. Members may submit electronic copies, in PDF format, of proposed regulations along with the corresponding notifications to the WTO Secretariat. These texts will be accessible, in the format and language provided, through a hyperlink in the notification format (see paragraph 22).

2.50. In addition, Members are encouraged to provide a website address or a specific hyperlink, if available, for the relevant documents in the appropriate section of the notification format.

### **2.10.1 SPS Notification Submission System (SPS NSS)**

2.51. The SPS NSS (<http://nss.wto.org/spsmembers>) is an online platform where WTO Members can directly complete and submit notifications. Submission through the SPS NSS allows for notifications to be processed more accurately and efficiently by the WTO Secretariat, making notifications accessible to the Membership much more rapidly.

2.52. Contact the Secretariat ([spscommittee@wto.org](mailto:spscommittee@wto.org)) to request access credentials for the SPS NSS.

## **3 GUIDELINES FOR NATIONAL ENQUIRY POINTS**

3.1. The National Enquiry Point system established in paragraph 3 of Annex B of the SPS Agreement is an effective avenue for obtaining information regarding SPS systems and measures from other Members.

3.2. The National Enquiry Point handles on a routine basis:

- document and information requests;
- general enquiries; and
- delivery and charging of documents.

3.3. National Enquiry Points should also provide, upon request, information on participation in any bilateral or multilateral equivalence agreements and arrangements in accordance with paragraph 3(d) of Annex B of the SPS Agreement.

3.4. While the mode of delivery is at the discretion of the Member concerned, it is recommended that delivery of documents should be by the fastest means possible. In the first instance, if the Member has such facilities, the documents should be made accessible through a website or sent by e-mail or by fax. Alternatively, a Member can send the documents by post or via a requesting Member's diplomatic mission in their territory.



3.5. A Member may only charge the same cost for the documents as it would for its own nationals plus the cost of delivering the documents in accordance with paragraph 4 of Annex B of the SPS Agreement.

3.6. Members should also refer to the guidelines on transparency contained in the handbook *Practical Manual for SPS National Notification Authorities and SPS National Enquiry Points (2018 Edition)*, when notifying regulations and operating National Enquiry Points in accordance with Article 7 and Annex B of the SPS Agreement.<sup>10</sup>

#### **4 PUBLICATION OF REGULATIONS**

4.1. The publication of regulations is a fundamental component of transparency under the SPS Agreement. This is a general obligation on Members, and does not relate specifically to the work of either the National Notification Authority or National Enquiry Point.

4.2. In accordance with paragraphs 1 and 2 of Annex B of the SPS Agreement, Members are obliged to:

- i. ensure that all SPS regulations which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them. Regulations to be published include laws, decrees or ordinances which are applicable generally;
- ii. except in urgent circumstances, allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

4.3. As agreed in the Doha Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17, paragraph 3.2):

Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.

4.4. The reasonable interval specified above between the publication and entry into force of new regulations should be provided, including when these are based on, conform to, or are substantially the same as an international standard, guideline, or recommendation.

4.5. Members are encouraged to publish SPS regulations on the Internet where possible. Publication on the Internet has a number of advantages and benefits to Members over more traditional methods. It:

- i. allows for greater transparency;
- ii. makes it easier for Members to obtain documents; and
- iii. reduces the amount of work involved in processing and fulfilling document requests.

#### **5 ACCESS TO INTERNATIONAL ELECTRONIC RESOURCES RELATED TO SPS NOTIFICATIONS AND OTHER SPS INFORMATION**

5.1. There are a number of international resources on the Internet which could facilitate Members' access to SPS-related information. These include the WTO Secretariat's Documents Online Facility (<http://docs.wto.org>) and SPS Information Management System (SPS IMS) (<http://spsims.wto.org>).

5.2. Members are encouraged to provide the WTO Secretariat up-to-date information regarding SPS-related websites within their territory for inclusion on the WTO's SPS webpage.

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<sup>10</sup> Available at: <http://www.wto.org/spstransparency>.



5.3. ePing (<http://www.epingalert.org>) is a publically available SPS & Technical Barriers to Trade (TBT) notification alert system. Subscribers are able to receive e-mail alerts regarding SPS & TBT notifications covering particular products or markets of interest to them. In addition, users can search and share notifications, upload additional information and related documents, as well as participate in discussion forums. ePing also offers an Enquiry Point Management Tool to facilitate both domestic and international information sharing and discussion.

**ANNEX A-1: REGULAR NOTIFICATIONS****COMPLETION OF FORMATS - REGULAR NOTIFICATIONS  
(ANNEX B, PARAGRAPH 5 OF THE SPS AGREEMENT)**

Information contained in the notifications should be as complete as possible and no section should be left blank. Where necessary, "Not known." or "Not stated." should be indicated.

Item	Description
1. Member notifying	Government, including the competent authorities of the European Union, which is making the notification.
2. Agency responsible	Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.
3. Products covered	Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO. ICS numbers should be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
4. Regions or countries likely to be affected	The geographical regions or countries likely to be affected by the notified regulation should be identified to the extent relevant or practicable. Members are encouraged to be as specific as possible in identifying regions or countries likely to be affected.
5. Title, language and number of pages of the notified document	<p>Title of the proposed or adopted (in the case of late submissions) sanitary or phytosanitary regulation. Number of pages in the notified document. Languages in which the notified document is available.</p> <p>If a translation of the whole document or its summary exists, indicate this here.</p> <p>If a Member submits the text of the draft regulation or a summary or translation thereof in PDF format along with the notification, the WTO Secretariat will facilitate access to this text through a hyperlink in the notification format.</p>
6. Description of content	<p>A summary of the proposed or adopted (in the case of late submissions) sanitary or phytosanitary regulation clearly indicating its content and health protection objective. The summary should be as complete and accurate as possible to allow the full understanding of the proposed regulation. To the extent possible, likely effects on trade should be described. Abbreviations should be avoided. Where practicable it should also include an outline of the specific sanitary measures the regulation will apply. The summary should enable trading partners to determine whether the notified measure is likely to have an impact on products they wish to export to the notifying Member.</p> <p>When a regulation contains both SPS and TBT measures, it should be notified according to both the SPS and TBT Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement and which parts fall under the TBT Agreement.</p>
7. Objective and rationale	State whether objective is: protection of human health from food-borne risks; or protection of human health from plant- or animal-carried diseases; or protection of animal health from pests or diseases; or protection of animal health from contaminated feed; or protection of plant health from pests or diseases; or prevention of other damage from entry, establishment or spread of pests.

Item	Description
8. Existence of international standard, guideline or recommendation	<p>If a relevant international standard, guideline or recommendation exists, put a cross in the box provided for the appropriate standard-setting organization and give the appropriate reference of the existing standard, guideline or recommendation, e.g., Codex standard number, ISPM number, OIE Code chapter. Indicate whether the proposed regulation conforms to the relevant international standard and if not, describe, whenever possible, how and why the proposed regulation deviates from the international standard, guideline or recommendation.</p> <p>If no international standard, guideline or recommendation exists, put a cross in the box "None".</p>
9. Other relevant documents and language(s) in which these are available	<p>Documents referenced here are different from those listed in box 5. Documents which should be referenced include:</p> <p>(a) Publication where notice of the proposed regulation appears, including date and reference numbers;</p> <p>(b) Proposal and basic document to which proposal refers (with specific reference number or other identification), and the language(s) in which the notified documents and any summary of these are available;</p> <p>(c) Publication in which proposal will appear when adopted.</p> <p>If it is necessary to charge for documents supplied, the amount of the charge should be indicated.</p> <p>Provide the website address and hyperlink for these documents where available.</p> <p>If a Member submits texts of referenced documents in PDF format along with the notification to the WTO Secretariat, hyperlinks to these texts will be made available under this item.</p>
10. Proposed date of adoption and of publication	<p>The date when the sanitary or phytosanitary regulation is expected to be adopted. Also provide where possible the proposed date of publication of the final measure if this differs from the date of adoption.</p>
11. Proposed date of entry into force	<p>The date from which the requirements in the regulation are proposed or decided to enter into force shall normally be at least six months following the above date of adoption and/or publication.</p> <p>Where appropriate, Members should accord longer time-frames for compliance on products of interest to developing country Members. This shall normally be a period of not less than six months.<sup>1</sup></p> <p>Put a cross in the box if the proposed measure contributes to the liberalization of trade. In this case, the implementation of the measure should not be unnecessarily delayed and no comment period need be provided.</p>
12. Final date for comments and agency or authority handling comments	<p>The date by which Members may submit comments in accordance with Annex B, paragraph 5(b) of the SPS Agreement. A Member should normally allow a period of at least sixty calendar days for comments. Check the box if this is 60 calendar days following the date of circulation of the notification as a WTO document; the Secretariat will indicate the corresponding date. If not, a specific date should be indicated. Any Member which is able to provide a time limit beyond 60 days is encouraged to do so.</p> <p>The agency or authority which has been designated to handle the comments should be indicated. If this is the National Notification Authority or the National Enquiry Point, put a cross in the box provided. If another agency or authority has been designated, provide its name, address, fax and e-mail address.</p> <p>For proposed measures which facilitate trade or those which are substantially the same as an international standard, guideline or recommendation, Members may reduce or eliminate the period for receiving comments.</p>

<sup>1</sup> Doha Decision on Implementation-Related Issues and Concerns (WT/MIN/(01)/17, paragraph 3.1).

Item	Description
13. Texts available from	<p>If available from the National Notification Authority or the National Enquiry Point, put a cross in the respective box. If available from another body, give its address, fax number and e-mail address. Such indications do not in any way discharge the relevant National Enquiry Point of its responsibilities under the provisions of Annex B, paragraphs 3 and 4 of the SPS Agreement.</p> <p>Provide the website address and specific hyperlink of the document notified, if available.</p> <p>If a Member submits the text of the draft regulation in PDF format along with the notification, a hyperlink to this text will be made available under this item.</p>



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Original: Language

### NOTIFICATION

1.	<b>Notifying Member:</b> <u>SPS1A</u> <b>If applicable, name of local government involved:</b> sps1b
2.	<b>Agency responsible:</b> sps2a
3.	<b>Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable):</b> sps3a
4.	<b>Regions or countries likely to be affected, to the extent relevant or practicable:</b> <b>[sps4b] All trading partners</b> sps4bbis <b>[sps4abis] Specific regions or countries:</b> sps4a
5.	<b>Title of the notified document:</b> sps5a. <b>Language(s):</b> sps5b. <b>Number of pages:</b> sps5c sps5d
6.	<b>Description of content:</b> sps6a
7.	<b>Objective and rationale:</b> [sps7a] food safety, [sps7b] animal health, [sps7c] plant protection, [sps7d] protect humans from animal/plant pest or disease, [sps7e] protect territory from other damage from pests. sps7f
8.	<b>Is there a relevant international standard? If so, identify the standard:</b> <b>[sps8a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text):</b> sps8atext <b>[sps8b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number):</b> sps8btext <b>[sps8c] International Plant Protection Convention (e.g. ISPM number):</b> sps8ctext <b>[sps8d] None</b> <b>Does this proposed regulation conform to the relevant international standard?</b> <b>[sps8ey] Yes [sps8en] No</b> <b>If no, describe, whenever possible, how and why it deviates from the international standard:</b> sps8e
9.	<b>Other relevant documents and language(s) in which these are available:</b> sps9a sps9b

<b>10.</b>	<b>Proposed date of adoption (<i>dd/mm/yy</i>):</b> sps10a <b>Proposed date of publication (<i>dd/mm/yy</i>):</b> sps10bisa
<b>11.</b>	<b>Proposed date of entry into force: [sps11c] Six months from date of publication, and/or (<i>dd/mm/yy</i>):</b> sps11a <b>[sps11e] Trade facilitating measure</b> sps11ebis
<b>12.</b>	<b>Final date for comments: [sps12e] Sixty days from the date of circulation of the notification and/or (<i>dd/mm/yy</i>):</b> sps12a <b>Agency or authority designated to handle comments: [sps12b] National Notification Authority, [sps12c] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b> sps12d
<b>13.</b>	<b>Text(s) available from: [sps13a] National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b> sps13c

## ANNEX A-2: REGULAR NOTIFICATIONS - ADDENDA



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Committee on Sanitary and Phytosanitary Measures

Original: Language

## NOTIFICATION

## Addendum

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title

Measure

**This addendum concerns a:**

- [**ModificationComment**] Modification of final date for comments
- [**Notification**] Notification of adoption, publication or entry into force of regulation
- [**ModificationContent**] Modification of content and/or scope of previously notified draft regulation
- [**Withdraw**] Withdrawal of proposed regulation
- [**ModificationDate**] Change in proposed date of adoption, publication or date of entry into force
- [**ModificationOther**] Other: ModificationOtherText

**Comment period: (If the addendum extends the scope of the previously notified measure in terms of products and/or potentially affected Members, a new deadline for receipt of comments should be provided, normally of at least 60 calendar days. Under other circumstances, such as extension of originally announced final date for comments, the comment period provided in the addendum may vary.)**

[**SixtyDayCirculation**] Sixty days from the date of circulation of the addendum to the notification and/or (dd/mm/yy): DateComment

**Agency or authority designated to handle comments: [CommentNNA] National Notification Authority, [CommentNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:**

CommentAddress

**Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:**

TextSupplierAddress

## ANNEX A-3: REGULAR NOTIFICATIONS - REVISIONS



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Original: Language

## NOTIFICATION

*Revision*

1.	<b>Notifying Member:</b> SPS1A <b>If applicable, name of local government involved:</b> sps1b
2.	<b>Agency responsible:</b> sps2a
3.	<b>Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable):</b> sps3a
4.	<b>Regions or countries likely to be affected, to the extent relevant or practicable:</b> [sps4b] All trading partners sps4bbis [sps4abis] Specific regions or countries: sps4a
5.	<b>Title of the notified document:</b> sps5a. <b>Language(s):</b> sps5b. <b>Number of pages:</b> sps5c sps5d
6.	<b>Description of content:</b> sps6a
7.	<b>Objective and rationale:</b> [sps7a] food safety, [sps7b] animal health, [sps7c] plant protection, [sps7d] protect humans from animal/plant pest or disease, [sps7e] protect territory from other damage from pests. sps7f
8.	<b>Is there a relevant international standard? If so, identify the standard:</b> [sps8a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text): sps8atext [sps8b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number): sps8btext [sps8c] International Plant Protection Convention (e.g. ISPM number): sps8ctext [sps8d] None <b>Does this proposed regulation conform to the relevant international standard?</b> [sps8ey] Yes [sps8en] No <b>If no, describe, whenever possible, how and why it deviates from the</b>



<b>international standard:</b> sps8e	
<b>9.</b>	<b>Other relevant documents and language(s) in which these are available:</b> sps9a sps9b
<b>10.</b>	<b>Proposed date of adoption (dd/mm/yy):</b> sps10a <b>Proposed date of publication (dd/mm/yy):</b> sps10bisa
<b>11.</b>	<b>Proposed date of entry into force:</b> [sps11c] <b>Six months from date of publication, and/or (dd/mm/yy):</b> sps11a <b>[sps11e] Trade facilitating measure</b> sps11ebis
<b>12.</b>	<b>Final date for comments:</b> [sps12e] <b>Sixty days from the date of circulation of the notification and/or (dd/mm/yy):</b> sps12a <b>Agency or authority designated to handle comments:</b> [sps12b] <b>National Notification Authority, [sps12c] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b> sps12d
<b>13.</b>	<b>Text(s) available from:</b> [sps13a] <b>National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b> sps13c

**ANNEX A-4: REGULAR NOTIFICATIONS - CORRIGENDA**



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**Committee on Sanitary and Phytosanitary Measures**

Original: Language

**NOTIFICATION**

*Corrigendum*

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title

Measure

**Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:**

TextSupplierAddress

## ANNEX A-5: REGULAR NOTIFICATIONS - SPECIAL AND DIFFERENTIAL TREATMENT



WORLD TRADE  
ORGANIZATION

G/SPS/N/ISO COUNTRY CODE/#/Add.#

DateDistribution

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**Committee on Sanitary and Phytosanitary Measures**

Original: Language

### NOTIFICATION

#### *Addendum*

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title

Measure

*Special and Differential Treatment*

(1) Name(s) of Member(s) that requested special and differential treatment:  
MembersRequested

(2) Special and differential treatment provided [IsTreatmentProvided] Yes  
[IsTreatmentProvidedNo] No

Describe how such treatment was provided, including what form it took.

TreatmentProvided

(3) If special and differential treatment was not provided, indicate why it was not provided and whether technical assistance or any other solution was found to address the identified concern.

OtherSolution

Text(s) available from: [TextAvailableNNA] National Notification Authority,  
[TextAvailableNEP] National Enquiry Point, or address, fax number and e-mail address (if available) of other body:

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**ANNEX B-1: EMERGENCY NOTIFICATIONS****COMPLETION OF FORMATS - EMERGENCY NOTIFICATIONS  
(ANNEX B, PARAGRAPH 6 OF THE SPS AGREEMENT)**

Information contained in the notification form should be as complete as possible and no section should be left blank. Where necessary, "Not known." or "Not stated." should be indicated.

Item	Description
1. Member notifying	Government, including the competent authorities of the European Union, which is making the notification.
2. Agency responsible	Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.
3. Products covered	Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO. ICS numbers should be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
4. Regions or countries likely to be affected	The geographical regions or countries likely to be affected by the notified regulation should be identified to the extent relevant or practicable. Members are encouraged to be as specific as possible in identifying regions or countries likely to be affected.
5. Title, language and number of pages of the notified document	Title of the proposed or adopted (in the case of late submissions) sanitary or phytosanitary regulation. Number of pages in the notified document. Languages in which the notified document is available.  If a translation of the whole document or its summary exists, indicate this here.  If a Member submits the text of the draft regulation or a summary or translation thereof in PDF format along with the notification, the WTO Secretariat will facilitate access to this text through a hyperlink in the notification format.
6. Description of content	A summary of the proposed or adopted sanitary or phytosanitary regulation clearly indicating its content and health protection objective. The summary should be as complete and accurate as possible to allow the full understanding of the proposed regulation. To the extent possible, likely effects on trade should be described. Abbreviations should be avoided. Where practicable it should also include an outline of the specific sanitary measures the regulation will apply. The summary should enable trading partners to determine whether the notified measure is likely to have an impact on products they wish to export to the notifying Member.  When a regulation contains both SPS and TBT measures, it should be notified according to both the SPS and TBT Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement and which parts fall under the TBT Agreement.
7. Objective and rationale	State whether objective is: protection of human health from food-borne risks; or protection of human health from plant- or animal-carried diseases; or protection of animal health from pests or diseases; or protection of animal health from contaminated feed; or protection of plant health from pests or diseases; or prevention of other damage from entry, establishment or spread of pests.
8. Nature of urgent problem(s) and reason for urgent action	Indication of the underlying reasons for resorting to emergency action, e.g., incursion of pests associated with imports, outbreak of a disease in supplying areas, etc.

Item	Description
9. Existence of international standard, guideline or recommendation	<p>If a relevant international standard, guideline or recommendation exists, put a cross in the box provided for the appropriate standard-setting organization and give the appropriate reference of the existing standard, guideline or recommendation, e.g., Codex standard number, ISPM number, OIE Code chapter. Indicate whether the proposed regulation conforms to the relevant international standard and if not, describe, whenever possible, how and why the proposed regulation deviates from the international standard, guideline or recommendation.</p> <p>If no international standard, guideline or recommendation exists, put a cross in the box "None".</p>
10. Other relevant documents and language(s) in which these are available	<p>Documents referenced here are different from those listed in box 5. Documents which should be referenced include:</p> <p>(a) Measure(s) taken and basic regulation which was modified (with specific reference number or other identification), and the language(s) in which the notified documents and any summary of these are available;</p> <p>(b) Publication in which regulation will appear.</p> <p>If it is necessary to charge for documents supplied, the amount of the charge should be indicated.</p> <p>Provide the website address and hyperlink for these documents where available.</p> <p>If a Member submits texts of referenced documents in PDF format along with the notification to the WTO Secretariat, hyperlinks to these texts will be made available under this item.</p>
11. Date of entry into force and period of application	<p>The date from which the requirements entered into force, and, if applicable, the period of time during which they will apply. (For example: immediate entry into force [date], duration of two months.)</p> <p>Put a cross in the box if the proposed measure contributes to the liberalization of trade.</p>
12. Agency or authority handling comments	<p>The agency or authority which has been designated to handle the comments should be indicated. If this is the National Notification Authority or the National Enquiry Point, put a cross in the box provided. If another agency or authority has been designated, provide its name, address, fax and e-mail address.</p>
13. Texts available from	<p>If available from the National Notification Authority or National Enquiry Point, put a cross in the respective box. If available from another body, give its address, fax number and e-mail address. Such indications do not in any way discharge the relevant National Enquiry Point of its responsibilities under the provisions of Annex B, paragraphs 3 and 4 of the SPS Agreement.</p> <p>Provide the website address and specific hyperlink of the document notified, if available.</p> <p>If a Member submits the text of the draft regulation in PDF format along with the notification, a hyperlink to this text will be made available under this item.</p>



WORLD TRADE  
ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

Original: Language

### NOTIFICATION OF EMERGENCY MEASURES

1.	<b>Notifying Member:</b> <u>SPS1A</u> <b>If applicable, name of local government involved:</b> sps1b
2.	<b>Agency responsible:</b> sps2a
3.	<b>Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable):</b> sps3a
4.	<b>Regions or countries likely to be affected, to the extent relevant or practicable:</b> <b>[sps4b] All trading partners</b> sps4bbis <b>[sps4abis] Specific regions or countries:</b> sps4a
5.	<b>Title of the notified document:</b> sps5a. <b>Language(s):</b> sps5b. <b>Number of pages:</b> sps5c sps5d
6.	<b>Description of content:</b> sps6a
7.	<b>Objective and rationale:</b> [sps7a] food safety, [sps7b] animal health, [sps7c] plant protection, [sps7d] protect humans from animal/plant pest or disease, [sps7e] protect territory from other damage from pests. sps7f
8.	<b>Nature of the urgent problem(s) and reason for urgent action:</b> sps8a
9.	<b>Is there a relevant international standard? If so, identify the standard:</b> <b>[sps9a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text):</b> sps9atext <b>[sps9b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number):</b> sps9btext <b>[sps9c] International Plant Protection Convention (e.g. ISPM number):</b> sps9ctext <b>[sps9d] None</b> <b>Does this proposed regulation conform to the relevant international standard?</b> <b>[sps9ey] Yes [sps9en] No</b> <b>If no, describe, whenever possible, how and why it deviates from the international standard:</b> sps9e

<b>10.</b>	<b>Other relevant documents and language(s) in which these are available:</b> sps10a sps10b
<b>11.</b>	<b>Date of entry into force (dd/mm/yy)/period of application (as applicable):</b> sps11a sps11c sps11cbis sps11d <b>[sps11e] Trade facilitating measure</b> sps11ebis
<b>12.</b>	<b>Agency or authority designated to handle comments:</b> [sps12a] National Notification Authority, [sps12b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps12c
<b>13.</b>	<b>Text(s) available from:</b> [sps13a] National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps13c

**ANNEX B-2: EMERGENCY NOTIFICATIONS - ADDENDA**

WORLD TRADE  
ORGANIZATION

**G/SPS/N/ISO COUNTRY CODE/#/Add.#**

DateDistribution

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**Committee on Sanitary and Phytosanitary Measures**

Original: Language

**NOTIFICATION OF EMERGENCY MEASURES***Addendum*

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title

Measure

**This addendum concerns a:**

- [**ModificationComment**] Modification of final date for comments
- [**ModificationContent**] Modification of content and/or scope of previously notified regulation
- [**Withdraw**] Withdrawal of regulation
- [**ModificationDate**] Change in period of application of measure
- [**ModificationOther**] Other: ModificationOtherText

**Agency or authority designated to handle comments: [CommentNNA] National Notification Authority, [CommentNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:**

CommentAddress

**Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:**

TextSupplierAddress



**ANNEX B-3: EMERGENCY NOTIFICATIONS – REVISIONS**

WORLD TRADE  
ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

Original: Language

**NOTIFICATION OF EMERGENCY MEASURES**

*Revision*

1.	<b>Notifying Member:</b> SPS1A <b>If applicable, name of local government involved:</b> sps1b
2.	<b>Agency responsible:</b> sps2a
3.	<b>Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable):</b> sps3a
4.	<b>Regions or countries likely to be affected, to the extent relevant or practicable:</b> [sps4b] All trading partners sps4bbis [sps4abis] Specific regions or countries: sps4a
5.	<b>Title of the notified document:</b> sps5a. <b>Language(s):</b> sps5b. <b>Number of pages:</b> sps5c sps5d
6.	<b>Description of content:</b> sps6a
7.	<b>Objective and rationale:</b> [sps7a] food safety, [sps7b] animal health, [sps7c] plant protection, [sps7d] protect humans from animal/plant pest or disease, [sps7e] protect territory from other damage from pests. sps7f
8.	<b>Nature of the urgent problem(s) and reason for urgent action:</b> sps8a
9.	<b>Is there a relevant international standard? If so, identify the standard:</b> [sps9a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text): sps9atext [sps9b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number): sps9btext [sps9c] International Plant Protection Convention (e.g. ISPM number): sps9ctext [sps9d] None <b>Does this proposed regulation conform to the relevant international standard?</b>

	<p><b>[sps9ey] Yes [sps9en] No</b></p> <p><b>If no, describe, whenever possible, how and why it deviates from the international standard:</b> sps9e</p>
<b>10.</b>	<p><b>Other relevant documents and language(s) in which these are available:</b> sps10a sps10b</p>
<b>11.</b>	<p><b>Date of entry into force (dd/mm/yy)/period of application (as applicable):</b> sps11a sps11c sps11cbis sps11d</p> <p><b>[sps11e] Trade facilitating measure</b> sps11ebis</p>
<b>12.</b>	<p><b>Agency or authority designated to handle comments: [sps12a] National Notification Authority, [sps12b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b> sps12c</p>
<b>13.</b>	<p><b>Text(s) available from: [sps13a] National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b> sps13c</p>

**ANNEX B-4: EMERGENCY NOTIFICATIONS – CORRIGENDA**



WORLD TRADE  
ORGANIZATION

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(00-0000)

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**Committee on Sanitary and Phytosanitary Measures**

Original: Language

**NOTIFICATION OF EMERGENCY MEASURES**

*Corrigendum*

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title

Measure

**Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:**

TextSupplierAddress

## **ANNEX C: FACILITY TO ACCESS FULL TEXTS OF NOTIFIED REGULATIONS**

### **ATTACHMENTS SUBMITTED TOGETHER WITH WTO SPS NOTIFICATIONS**

#### *Guidelines*

#### **1 GENERAL**

- (a) An "attachment" is a draft regulatory text or a translation or a summary thereof referred to in a WTO SPS notification.
- (b) An attachment will not be considered as a WTO document.
- (c) The Secretariat cannot be held responsible for the content of attachments.

#### **2 PROVISION OF ATTACHMENTS TO THE WTO**

- (a) Attachments should be provided electronically to the Central Registry of Notifications ([crn@wto.org](mailto:crn@wto.org)), in conjunction with the corresponding WTO SPS notification.
- (b) Attachments will not be scanned by the WTO Secretariat if submitted in hard copy.
- (c) Attachments should be provided in PDF format only. Notifications should continue to be submitted in Word.
- (d) Individual attachments should not exceed 4MB in size; multiple attachments may be provided.

#### **3 STORAGE OF ATTACHMENTS**

- (a) Attachments will be stored on a WTO central server.
- (b) Attachments stored on the WTO central server will be viewable online by clicking on the hyperlink in the notification form.
- (c) Attachments can also be downloaded directly by the user.
- (d) Attachments will not be circulated in hard copy form.

#### **4 LANGUAGE OF ATTACHMENTS**

- (a) Attachments may be provided in their original language.
- (b) If available, Members may also provide translations.
- (c) Attachments will not be translated by the Secretariat.

## ANNEX D: AVAILABILITY OF UNOFFICIAL TRANSLATIONS



WORLD TRADE ORGANIZATION  
ORGANISATION MONDIALE DU COMMERCE  
ORGANIZACIÓN MUNDIAL DEL COMERCIO

**G/SPS/N/ISO COUNTRY  
CODE/#/Suppl.#**

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### Committee on Sanitary and Phytosanitary Measures

#### AVAILABILITY OF TRANSLATIONS

##### NOTE BY THE SECRETARIAT

###### *Supplement*

The Secretariat has been informed that an unofficial translation into language of the document referenced in this notification is available for consultation at:

html address.

### Comité des mesures sanitaires et phytosanitaires

#### TRADUCTIONS DISPONIBLES

##### NOTE DU SECRÉTARIAT

###### *Supplément*

Le Secrétariat a été informé qu'une traduction non officielle en langue du document auquel renvoie la présente notification pouvait être consultée à l'adresse suivante:

adresse html.

### Comité de Medidas Sanitarias y Fitosanitarias

#### ACCESO A TRADUCCIONES

##### NOTA DE LA SECRETARÍA

###### *Suplemento*

Se ha comunicado a la Secretaría que en la dirección:

dirección html

se puede consultar una traducción no oficial al idioma del documento a que se hace referencia en la presente notificación.

## ANNEX E: NOTIFICATION OF RECOGNITION OF EQUIVALENCE

### RECOMMENDED PROCEDURES FOR THE COMPLETION OF THE NOTIFICATION FORMAT

In accordance with the Decision on Equivalence (G/SPS/19/Rev.2), a Member which has made a determination recognizing the equivalence of sanitary or phytosanitary measures of another Member or Members shall notify other Members through the Secretariat of the measure(s) recognized to be equivalent and of the products affected by this recognition.

For the purposes of this notification, equivalence is defined to be the state wherein sanitary or phytosanitary measures applied in an exporting Member, though different from the measures applied in an importing Member, achieve, as demonstrated by the exporting Member and recognized by the importing Member, the importing Member's appropriate level of sanitary or phytosanitary protection. A determination of the recognition of equivalence may be with respect to a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis.

Notification should also be made of significant variations to existing equivalence arrangements, including their suspension or rescission.

Item	Description
1. Member notifying	Government, including the competent authorities of the European Union, which is making the notification.
2. Title of the text stating determination of the recognition of equivalence	Title of any formal or informal agreement, Memorandum of Understanding or other document establishing the determination of recognition of equivalence.
3. Parties involved	Name of the exporting Member or Members whose measure has been determined to be equivalent.
4. Date of entry into force of the determination of the recognition of equivalence and any associated procedures or regulations	Date from which procedures, regulations or other measures based on the determination of recognition of equivalence took effect.
5. Products covered (HS or ICS where applicable, otherwise national tariff heading)	Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO of the product(s) which are imported on the basis of the determination of the recognition of equivalence.
6. Brief description of the measure(s) recognized to be equivalent	Clearly indicate the nature of the recognition of equivalence, including which measure(s) of the exporting Member have been determined to be equivalent and which elements of the importing Member's usual requirements are met by these equivalent measures.
7. Further information available from	The agency or authority from which an interested Member may request further information regarding the specific determination of equivalence being notified. If this is the National Enquiry Point, check the box provided. If available from another body, give its address, fax number and e-mail address. Provide the website address of the document, if available.



WORLD TRADE  
ORGANIZATION

G/SPS/N/EQV/ISO COUNTRY CODE/#

DateDistribution

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Committee on Sanitary and Phytosanitary Measures

Original: Language

**NOTIFICATION OF DETERMINATION OF THE RECOGNITION OF EQUIVALENCE  
OF SANITARY OR PHYTOSANITARY MEASURES**

The following notification of determination of the recognition of equivalence has been received.

1.	Member notifying: 1A
2.	Title of the text stating the determination of the recognition of equivalence: 2a
3.	Parties involved: 3a
4.	Date of entry into force of the determination of the recognition of equivalence and any associated procedures or regulations: 4a 4b
5.	Products covered (HS or CCCN where applicable, otherwise national tariff heading): 5a
6.	Description of measures recognized to be equivalent: 6a
7.	Further information available from: [7b] National Enquiry Point [7c] Other (specify) 7a





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**Committee on Sanitary and Phytosanitary Measures**

**PROCEDURE TO ENHANCE TRANSPARENCY OF SPECIAL AND DIFFERENTIAL  
TREATMENT IN FAVOUR OF DEVELOPING COUNTRY MEMBERS**

Decision by the Committee<sup>1</sup>

Revision

The Committee on Sanitary and Phytosanitary Measures ("the Committee"),

*Recalling* that paragraph 1 of Article 10 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement") states that in the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members;

*Seeking* to develop effective, concrete and operational means to facilitate the implementation of this provision;

*Recognizing* the difficulties that Members, and in particular developing country and least-developed country Members, may face in adapting their products and methods of production to new or changed requirements of importing Members;

*Recognizing* also the need to make transparency procedures more effective and operational for developing country Members, and in particular least-developed country Members;<sup>2</sup>

*Noting* that the provision of technical assistance, as referred to in Article 9 of the Agreement, may assist Members adapt their products and methods of production to new or changed requirements;

*Recalling* that paragraph 2 of Article 9 of the Agreement indicates that where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved;

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<sup>1</sup> At its meeting of 28-29 October 2009, the Committee adopted this revision on an ad referendum basis. Members who objected to the adoption of the revision were asked to make this known by 16 December 2009. No objections were raised by that date.

<sup>2</sup> Developing country Members may request assistance to ensure the effective functioning of a National Notification Authority and Enquiry Point, including the capacity to effectively receive and review the notifications of other Members, in order to identify and react to those which may have a potential significant effect on their international trade. The "mentoring" procedure for assisting Members in the implementation of the transparency provisions of the SPS Agreement may also be useful in this regard (see G/SPS/W/217).

*Recalling* that the Committee's regular agenda items on the "Implementation of Special and Differential Treatment" and on the "Operation of Transparency Provisions" provide opportunities, on an on-going basis, for raising concerns or assessing progress with respect to the implementation of the procedure to enhance transparency of special and differential treatment in favour of developing country Members;

*Encourages* Members to make full use of this procedure and thereby to also contribute to enhanced transparency with respect to special and differential treatment and/or technical assistance being offered or provided upon request; and

*Decides* that the following procedure should be used to enhance transparency of special and differential treatment in favour of developing country Members:

1. This procedure to enhance transparency of special and differential treatment in favour of developing country Members should normally be used during the comment period following the circulation of an SPS notification in accordance with the relevant provisions and procedures contained in the Agreement or subsequently adopted by Members, except as provided in Step 5 below.<sup>3</sup>

#### Steps for proposed measures

2. If an exporting developing country Member identifies significant difficulties with a proposed measure that has been notified, that Member may, in the comments it submits in writing to the notifying Member, request an opportunity to discuss the issue of concern with the notifying Member. The exporting developing country Member should identify to the notifying Member the specific problems that the proposed measure may create for its exports, or the specific reasons why it is unable to comply with the notified measure by the implementation date.

3. In response to such a request, where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of the new measure, a longer time-frame for compliance should be accorded to developing country Members, which shall be understood to mean normally a period of not less than six months.<sup>4</sup>

4. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, the Member notifying the measure shall, upon such request, enter into consultations with the exporting Member with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.<sup>5</sup> Such consultations shall preferably take place prior to the entry into force of the new measure. A possible resolution of the concern identified could include one of the following, or a combination thereof: (1) a change in the proposed measure; (2) the provision of technical assistance to the exporting developing country Member; or (3) the provision of special and differential treatment.

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<sup>3</sup> In particular, Article 7 and Annex B of the Agreement, and the Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7) contained in G/SPS/7/Rev.3. In addition, the Procedural Step-by-Step Manual for SPS National Notification Authorities and SPS National Enquiry Points can assist Members in meeting the obligations and following the recommended procedures (available electronically at: [http://www.wto.org/english/res\\_e/booksp\\_e/sps\\_procedure\\_manual\\_e.pdf](http://www.wto.org/english/res_e/booksp_e/sps_procedure_manual_e.pdf)). These texts also provide information regarding the availability of SPS notifications, including through the SPS Information Management System (<http://spsims.wto.org>).

<sup>4</sup> Ibid.

<sup>5</sup> WT/MIN(01)/17, paragraph 3.1. This step may also be used where the phased introduction of a measure will not resolve the specific problems identified by the exporting developing country Member.

#### Steps following entry into force of a new measure

5. If, following the adoption or entry into force of a new or modified measure (including an emergency measure), an exporting developing country Member identifies significant difficulties which its exports face in complying with the measure, it may request an opportunity to discuss its difficulties with the importing Member to attempt to resolve the issue of concern, especially where no time, or an insufficient period of time, had been provided for the submission of comments prior to the implementation of the measure. The importing Member shall, upon such request from an exporting developing country Member, enter into consultations with the exporting Member to discuss possible means to address the identified problem while continuing to achieve the importing Member's appropriate level of protection. A possible resolution of the concern identified could include one of the following, or a combination thereof: (1) a change in the measure; (2) the provision of technical assistance to the exporting developing country Member; or (3) the provision of special and differential treatment.

#### Transparency

6. When an importing Member decides on whether and how special and differential treatment may be provided in response to a specific request, that Member should inform the SPS Committee. This may be done in writing and/or under the agenda item on Special and Differential Treatment at any meeting of the SPS Committee. Information provided in writing should be submitted to the WTO Secretariat as an Addendum to the original notification concerning the measure. The Addendum shall indicate: (1) the name(s) of Member(s) that requested special and differential treatment; (2) if special and differential treatment was provided, the form of such treatment; and (3) if not provided, the Addendum shall indicate why special and differential treatment was not provided and whether technical assistance or any other solution was found to address the identified concern. A format for the Addendum is contained in the Annex.

#### Administration

7. The Committee shall review the implementation of this procedure, in light of the experiences of Members and relevant Addenda, as an integral part of its periodic Review of the Operation and Implementation of the Agreement under Article 12.7. The next such Review is to be completed in 2013, and every four years subsequently.

8. The Committee may decide to modify, suspend or terminate this procedure at any time, in light of the experiences of Members in its implementation.

9. This procedure is without prejudice to the rights and obligations of Members under Article 10.1 of the SPS Agreement. The Committee recognizes that this procedure does not fully resolve the issue of special and differential treatment, but that it is one step in addressing the problem of implementation of the special and differential treatment provisions of the Agreement. The Committee agrees to consider other proposals and possible actions.

ANNEX

**WORLD TRADE  
ORGANIZATION**

**G/SPS/N/COUNTRY/#/Add.#**  
date of distribution

(##-####)

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**Committee on Sanitary and Phytosanitary Measures**

Original:

**NOTIFICATION**

Addendum

The following communication, received on DD/MM/YY, is being circulated at the request of the Delegation of [Member].

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Title outlining the SPS measure at issue

[Text describing any modification to the notified measure.]

*Special and Differential Treatment*

- (1) Name(s) of Member(s) that requested special and differential treatment
- (2) Special and differential treatment provided      ☐ Yes      ☐ No  
Describe how such treatment was provided, including what form it took.
- (3) If special and differential treatment was not provided, indicate why it was not provided and whether technical assistance or any other solution was found to address the identified concern.

Text available from: ☐ National Notification Authority, ☐ National Enquiry Point, or address, fax number and E-mail address (if available) of other body:

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**MINISTERIAL CONFERENCE**  
**Fourth Session**  
**Doha, 9 - 14 November 2001**

**IMPLEMENTATION-RELATED ISSUES AND CONCERNS**

Decision of 14 November 2001

The Ministerial Conference,

*Having regard to* Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

*Mindful* of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

*Determined* to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

*Recalling* the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

*Noting* the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

*Noting also* the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

*Decides* as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)

- 1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.

- 1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

- 2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.
- 2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.
- 2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.
- 2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

- 3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.
- 3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.

- 3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.
- 3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.
- 3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and
- (ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.
- 3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and
- (ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

- 4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.
- 4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.
- 4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

- 4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning



of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;

- 4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

- 5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.

- 5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

- 5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

- 5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

- 6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.

- 6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.



7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

- 7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.
- 7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.
- 7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12 months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.
- 7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.

8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

- 8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
- 8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.
- 8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the

Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

- 9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.
- 9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

- 10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US \$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US \$1000 based upon the most recent data from the World Bank.
- 10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.
- 10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing

Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.

- 10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US\$ 1,000.
  - 10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.
  - 10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.
11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- 11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.
  - 11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

- (i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;
- (ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and
- (iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")<sup>1</sup> should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation Issues<sup>2</sup>

Agrees that outstanding implementation issues be addressed in accordance with paragraph 12 of the Ministerial Declaration (WT/MIN(01)/DEC/1).

14. Final Provisions

Requests the Director-General, consistent with paragraphs 38 to 43 of the Ministerial Declaration (WT/MIN(01)/DEC/1), to ensure that WTO technical assistance focuses, on a priority basis, on assisting developing countries to implement existing WTO obligations as well as on increasing their capacity to participate more effectively in future multilateral trade negotiations. In carrying out this mandate, the WTO Secretariat should cooperate more closely with international and regional intergovernmental organisations so as to increase efficiency and synergies and avoid duplication of programmes.

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<sup>1</sup> BISD 26S/203.

<sup>2</sup> A list of these issues is compiled in document Job(01)/152/Rev.1.

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## Committee on Sanitary and Phytosanitary Measures

### REPORT ON PROPOSALS FOR SPECIAL AND DIFFERENTIAL TREATMENT

Adopted by the Committee on 30 June 2005

#### I. INTRODUCTION

##### A. BACKGROUND

1. On 1 August 2004, the General Council adopted the following decision with respect to special and differential treatment:

"... the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far ...

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions."<sup>1</sup>

Furthermore, in the Doha Development Round Declaration, Ministers agreed:

"... that all special and differential treatment provisions shall be reviewed with a view to strengthening them, and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns."<sup>2</sup>

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<sup>1</sup> WT/L/579.

<sup>2</sup> WT/MIN(01)/DEC/1, para. 44. Paragraph 12.1 of the Decision on Implementation-Related Issues and Concerns.(WT/MIN(01)/17) reads as follows:

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

(i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;

(ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in

2. Among the 38 proposals in Category II, five were referred to the SPS Committee. These proposals concern specifically the provisions of Articles 9 and 10 of the SPS Agreement. The text of these articles and of the five proposals are reproduced below for ease of reference.

3. These proposals have previously been considered in various formal and informal meetings of the General Council, the Committee on Trade and Development, and the SPS Committee.<sup>3</sup> This draft report is based on the discussions of these proposals and of special and differential treatment in the formal and informal meetings of the SPS Committee, as well as during informal consultations held on 28 January, 15 and 18 February, 18 and 24 May 2005. It also includes comments on the background document prepared by the Secretariat (G/SPS/GEN/543).

#### B. CONSIDERATIONS IN PREPARING THIS REPORT

4. In the context of the discussions of the proposals in the SPS Committee and in other WTO bodies, many Members have indicated that they are opposed to any formal modification of the text of the SPS Agreement at this time, whereas other Members have indicated that they would agree to consider such modification if this were deemed necessary. A broad consensus exists to actively seek alternative, concrete avenues to fulfil the mandate before undertaking specific changes in the text of the SPS Agreement. One major concern is that modification of Articles 9 and 10 could result in changes to the balance of rights and obligations established by the SPS Agreement, and could lead to changes in the text of other provisions. Many Members consider any such changes to be unacceptable, unnecessary to address the underlying concerns of developing country Members, and in particular least-developed country Members.

5. Members have stressed that it is not the intention of any of the proposals to impinge on the right of any Member to implement scientifically justified SPS measures necessary to ensure that products moving in international trade do not present unacceptable risks to human, animal or plant life or health, or to the territory of a Member. Trade in products considered to be unsafe or sub-standard would have deleterious effects on consumer demand, reflect poorly on the exporting Member's reputation, and unnecessarily call regulatory competencies into question. At the same time, Members recognize that developing country Members, and in particular least-developed country Members, face specific difficulties in meeting the sanitary and phytosanitary requirements of many of their trading partners, and need targeted technical assistance. Import requirements that differ from those based on the relevant international standards, while not necessarily inconsistent with the SPS Agreement<sup>4</sup>, can pose considerable difficulties to developing countries.

6. The SPS Agreement is relatively new, and some Members are still in the process of adjusting to and developing more effective implementation of the expanded new disciplines established by the Agreement. For developing country Members, most of the provisions of the Agreement became applicable only as of January 1997; for the least-developed country Members, the date of application was January 2000. Recent studies have shown that the level of knowledge and understanding of the

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*particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and*

(iii) *to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.*

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

<sup>3</sup> See relevant sections of reports of meetings of the SPS Committee (G/SPS/R/Series), as well as G/SPS/23, G/SPS/24, G/SPS/27 and Corr.1, G/SPS/30.

<sup>4</sup> See, *inter alia*, Article 3.3



Agreement remains relatively low, and that academic and institutional responses are also nascent.<sup>5</sup> A number of WTO Members have not as yet fulfilled obligations relating to the identification of a national notification authority and of an SPS enquiry point, and many have not submitted any notifications of new or revised SPS measures.<sup>6</sup>

7. At the same time, it is apparent from the studies undertaken by the World Bank<sup>7</sup> and others that SPS measures and the application of the SPS Agreement are of increasing importance to the movement of goods in agricultural trade. This importance is expected to increase, for all WTO Members. Members have recognized that developing country Members, and in particular least-developed country Members, face specific difficulties in effectively implementing provisions of the SPS Agreement, including the transparency provisions. Members have indicated their commitment to assist in addressing the specific difficulties and to ensure improved capacities and efficiencies.

8. This report describes some underlying concerns and common objectives as identified by Members in the Committee's discussions. Developments which have occurred since the proposals were submitted in 2002, and which address, in part, these concerns or objectives are also described. The report also describes constraints faced by the Committee in the development of precise, effective and operational recommendations on the five proposals referred to it by the General Council. The report identifies initial elements that could be examined by the SPS Committee with a view to providing more precise, effective and operational means to address, at least in part, identified concerns.

## II. RELEVANT SPS PROVISIONS

### *Article 9*

#### *Technical Assistance*

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

<sup>5</sup> "Food Safety and Agricultural Health Standards: Challenges and Opportunities for Developing Country Exports", World Bank Report No. 31207, 10 January 2005.

<sup>6</sup> G/SPS/W/173/Rev.2, paragraphs 26 and 27.

<sup>7</sup> *Idem*.

2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

#### *Article 10*

##### *Special and Differential Treatment*

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.

2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.

3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.

4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

### **III. TEXTS OF THE PROPOSALS**

#### **A. PROPOSALS RELATING TO ARTICLE 9.2**

9. To make this mandatory provision effective and operational it is proposed that the clause "shall consider providing" be changed to "shall provide". It is further proposed to add the following sentence to the provision:

"If an exporting developing country Member identifies specific problems of inadequate technology and infrastructure in fulfilling the sanitary or phytosanitary requirements of an importing developed country Member, the latter shall provide the former with relevant technology and technical facilities on preferential and non-commercial terms, preferably free of cost, keeping in view the development, financial and trade needs of the exporting developing country."<sup>8</sup>

10. The phrase "substantial investments" in Article 9.2 shall be construed relative to resources of concerned government departments in developing and least-developed country Members and to their development needs. Any changes that would require additional resources to existing levels of current expenditure or their restructuring, or additional training or staffing, shall be construed to amount to "substantial investments".<sup>9</sup>

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<sup>8</sup> TN/CTD/W/2.

<sup>9</sup> TN/CTD/W/3/Rev.2.



11. Where the importing Member does not actually provide such technical assistance, that Member shall withdraw the measures immediately and unconditionally; or the importing Member shall compensate the exporting developing country Members for loss resulting directly or indirectly from the measures.<sup>10</sup>

12. It is understood that technical assistance shall be fully funded technical assistance and shall not entail financial obligations on the part of the exporting developing and least-developed country Members.<sup>11</sup>

13. It is agreed that the WTO shall recommend that impact assessments shall be conducted to determine the likely effect on the trade of developing and least-developed country Members for any proposed standards before adoption, and if the impact would be adverse, the standards would not become applicable until it is established that developing and least-developed country Members that would be affected have acquired the capacity to beneficially comply with them.<sup>12</sup>

B. PROPOSALS RELATING TO ARTICLE 10.1

14. For effective operationalization of Article 10.1, it is suggested that the following addition be made to the existing provision:

"If an exporting developing country Member identifies specific problems in complying with a sanitary or phytosanitary measures of an importing developed country Member, the latter shall upon request enter into consultations with a view to finding a mutually satisfactory solution.

In this regard, such special needs shall include: securing and enhancing current levels of exports from developing and least developed country members, maintain their market shares in their export markets, as well as developing their technological and infrastructural capabilities. While notifying a measure, Members shall, *inter-alia*, indicate the following: (i) systems and/or equivalent systems that could be used to comply with such a measure; (ii) the names of the developing and least-developed country Members that could be affected by the applied measure."<sup>13</sup>

15. The requirement to "take account of the special needs of developing country Members, and in particular least developed country Members" in Article 10.1 shall be understood to mean that Members shall either withdraw measures that adversely affect any developing and least-developed country Members or which they find difficult to comply with, or shall provide the technical and financial resources necessary for the developing and least-developed country Members to comply with the measures.<sup>14</sup>

16. The requirement shall be further understood to mean that Members shall always initiate consultations in the Committee whenever they propose or intend to take any measures that are likely to affect imports from developing and least-developed country Members. In the consultations, Members shall establish whether or not the proposed or intended measures, if justified under the Agreement, would adversely affect any developing and least-developed country Members.<sup>15</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> TN/CTD/W/2.

<sup>14</sup> TN/CTD/W/3/Rev.2.

<sup>15</sup> Ibid.

17. Members shall establish a facility within the Global Trust Fund for ensuring that:
- (a) developing and least-developed country Members have the financial and technical capacity to meet the requirements under the Agreement;
  - (b) delegations from developing and least-developed country Members attend and effectively participate in meetings of the Committee and relevant international standard-setting organisations;
  - (c) developing and least-developed country Members effectively utilise the flexibility under the Agreement; and
  - (d) measures adopted under the Agreement do not contravene the rights of developing and least-developed country Members.<sup>16</sup>
18. It is understood that technology transfer and any technical and financial assistance under the Agreement to developing and least-developed country Members shall be cost free.<sup>17</sup>

C. PROPOSAL RELATED TO ARTICLE 10.4

19. In Article 10.4 of the Agreement on the Application of Sanitary and Phytosanitary Measures the term "should" be read to express "duty" rather than mere exhortation. This could be clarified through an authoritative interpretation under Article IX.2 of the Marrakesh Agreement Establishing the WTO. This would help achieve the intended objective of this S&D provision.<sup>18</sup>

**IV. UNDERLYING CONCERNS**

20. The underlying concerns relate to key difficulties developing countries may face in meeting new or modified SPS requirements of their trading partners, and hence in achieving or maintaining access to markets for their products. Import requirements that differ from those based on the relevant international standards, while not necessarily inconsistent with the Agreement<sup>19</sup>, can pose considerable difficulties to developing countries. Developing country Members may lack the necessary knowledge, infrastructure or technology to deal with new requirements. These deficiencies can often not be overcome without initial institutional development, technical and financial assistance. These deficiencies can have negative consequences on the acceptability of products for trade.

21. Members attach importance to technical assistance being provided both on a bilateral basis and through relevant international organizations. However, such assistance is often characterized as supply-driven, and may be determined to a greater extent by the policy interests of the donor rather than the specific needs of the recipient. At the same time, Members noted the general paucity of demand-driven requests, apparently partially due to institutional capacity constraints. Furthermore, Members expressed concern that in the absence of more targeted, specific trade assistance goals, addressing timeliness and sustainability in an efficient manner is highly difficult. A particular concern is provision of assistance only after a developing country Member has lost market access due to a SPS measure. Another concern reflects the uncertainty of support and a desire to ensure that technical assistance is more predictable. Some developing country Members also maintain that a simplification of the administrative procedures of developed country Members would make it less costly and easier for developing country Members to comply with their SPS requirements and export. Some Members have indicated that one advantage of making these provisions binding is that

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<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> TN/CTD/W/6.

<sup>19</sup> See, *inter alia*, Article 3.3

developing country Members would no longer be required to specifically request technical assistance; however, all Members recognize that technical assistance should be more needs- and results-driven.

22. The general effectiveness of technical assistance has been questioned. In particular, a number of developing country Members have indicated that much of the assistance they have received has not had the desired effect of allowing them to maintain or achieve export opportunities in the face of new or existing SPS requirements. This concern underlies a desire to find more effective means to ensure the better overall performance and demonstrated specific results of technical assistance.

23. Developing country Members have further identified the need for special and differential treatment, in particular in the context of allowing more time for them to adjust to new requirements for the products they export.

24. Another underlying concern relates to the difficulties faced by developing country Members in effectively participating in the work of the SPS Committee and relevant international standard-setting bodies. Physical presence at meetings is necessary, but to ensure that participation is effective the necessary expertise and coordination must be built-up within developing country Members.

## V. RELEVANT DEVELOPMENTS

25. The Decision on Implementation taken at the Doha Ministerial Conference in 2001 included *inter alia* a clarification on Article 10.2.<sup>20</sup> It specifies that where the appropriate level of protection allows scope for the phased introduction of SPS measures, the "longer time-frame for compliance" referred to in Article 10.2 shall be understood to mean normally a period of not less than six months. Where the phased introduction of a new measure is not possible, but a Member identifies specific problems, the Member applying the new measure shall enter into consultations, upon request, to try to find a mutually satisfactory solution. The Decision also indicated that, subject to the conditions specified in paragraph 2 of Annex B of the SPS Agreement, a period of not less than six months shall normally be provided between the publication of a measure and its entry into force. Finally, the Doha Ministerial Decision instructed the SPS Committee to undertake a review of the operation and implementation of the SPS Agreement every four years.<sup>21</sup>

26. Since the proposals were submitted in 2002, a number of developments have occurred which address some of the underlying concerns. With respect to the three standard-setting bodies of relevance under the SPS Agreement, trust funds have been established to increase participation of developing country Members in the standard-setting activities of the International Plant Protection Convention (IPPC) and of the FAO/WHO Codex Alimentarius Commission (Codex)<sup>22</sup>, and the World Organization for Animal Health (OIE) will establish a trust fund before the end of 2005. These trust funds are supported through contributions by donor agencies and member countries.

27. With respect to the Codex trust fund established by FAO/WHO, during the period March to December 2004, a total of 83 persons from 75 countries attended 14 separate Codex meetings, including the Codex Alimentarius Commission meeting held in June-July 2004. All 83 participants were funded entirely by the Codex Trust Fund and most were government officials from least developed countries. The breakdown of participants was: 60 per cent from least-developed and other lower income countries; 29 per cent from lower middle income countries; and 11 per cent from

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<sup>20</sup> WT/MIN(01)/17, paragraph 3.1.

<sup>21</sup> The report of this review, the second since the entry into force of the Agreement, is contained in document G/SPS/36.

<sup>22</sup> See proposals in paras. 17(b) and 19 above.

upper middle income countries.<sup>23</sup> In order to improve the effectiveness of the trust fund, FAO/WHO plan an information meeting of both donor and beneficiary Members in July 2005.

28. In 2004, the IPPC established a trust fund under FAO rules to be used exclusively to the direct benefit of developing countries. It is used to facilitate their participation and involvement in all IPPC activities, including in the Interim Commission on Phytosanitary Measures, in regional workshops on draft international standards for phytosanitary measures, in Expert Working Groups, and also in phytosanitary capacity-building and information exchange.<sup>24</sup>

29. The OIE will establish a trust fund before the end of 2005. The OIE also continues to provide financial support for the participation of Chief Veterinary Officers of its member countries in OIE standard-setting activities.

30. Since the SPS Agreement entered into force, the FAO/WHO, OIE and IPPC have also developed and/or strengthened technical assistance programmes, including conferences, seminars and workshops, to enhance national capacities on SPS matters. The IPPC developed a diagnostic tool, the Phytosanitary Capacity Evaluation (PCE), to help countries address their current capacity and identify needs for assistance.<sup>25</sup> Similar diagnostic tools have been developed by the FAO/WHO with respect to food safety, and recently by OIE.<sup>26</sup> In addition, other international and regional organizations, including the World Bank, OIRSA, IICA, UNIDO and UNCTAD, provide regular updates to the SPS Committee on their programmes related to SPS capacity building.

31. In order to address some of the needs identified with respect to technical assistance, the Secretariat has undertaken numerous regional and national training workshops on the SPS Agreement, and, in particular, on how Members can use the provisions of the Agreement to facilitate their trade interests.<sup>27</sup> The Secretariat also organized workshops in Geneva on: technical assistance needs and how to best address these in relation to the SPS Agreement (November 2002); the principles and methods of risk analysis (June 2000); the processes and procedures of the relevant standard-setting organizations (March 2001); and on the effective operation of national SPS enquiry points (November 2003). Furthermore, the Secretariat has developed a number of tools to assist Members with the understanding and implementation of the Agreement, including a booklet on "Understanding the SPS Agreement"<sup>28</sup>; a handbook on the application of the transparency provisions of the Agreement; and an inter-active CD-ROM explaining and discussing in detail the provisions of the Agreement and circulated two questionnaires on technical assistance to Members.

32. In September 2002, following consultations by the Director-General with the FAO, OIE, WHO and the World Bank as requested by the General Council in October 2000, the Standards and Trade Development Facility (STDF) was established. The purpose of the STDF, which is administered by the WTO, is to enhance the capacity of developing countries in the SPS area through the provision of funding for projects in developing countries, as well as through cooperation between the relevant institutions in SPS-related activities including joint institutional projects.<sup>29</sup> This facility can be used to finance projects to assist developing country Members, and in particular least-developed country Members, make more effective use of all of the provisions of the SPS Agreement,

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<sup>23</sup> More information on the Codex Trust Fund is available in documents G/SPS/GEN/564 and 565, and from the web site <http://www.who.int/foodsafety/codex/trustfund/en/>

<sup>24</sup> G/SPS/GEN/482.

<sup>25</sup> <http://www.ippc.int>.

<sup>26</sup> See G/SPS/GEN/525; also "Performance, Vision and Strategy (PVS) for National Veterinary Services", available from <http://www.oie.int>.

<sup>27</sup> These training activities are described in more detail in document G/SPS/GEN/521.

<sup>28</sup> WTO Agreements Series, Volume No. 4

<sup>29</sup> The Secretariat reports regularly to the SPS Committee on the STDF, most recently in G/SPS/GEN/523.

including those related to dispute resolution.<sup>30</sup> As of June 2005, the STDF had funded approximately US\$2 million of projects and project preparation grants. These include projects proposed by developing country Members, as well as pilot projects developed to address specific needs identified by developing country Members in the SPS Committee. The STDF also maintains a database, which provides information on SPS-related technical assistance and capacity building projects.<sup>31</sup>

33. Several Members have also created specific mechanisms to assist developing countries to participate in the relevant international institutions and in the activities of the SPS Committee, such as the Initiative for the Americas on Sanitary and Phytosanitary Measures.<sup>32</sup> Furthermore, bilateral technical assistance related to SPS capacity is being provided by many Members.<sup>33</sup>

34. Guidelines and decisions adopted by the Committee have regularly taken into consideration the specific needs and concerns expressed by developing country Members. These include the recommended procedures for implementing the transparency provisions of the SPS Agreement (G/SPS/7/Rev.2 and Add.1 and 2); the guidelines to further the practical implementation of Article 5.5 (G/SPS/15), and the decision on the implementation of Article 4 of the Agreement regarding recognition of equivalence (G/SPS/19/Rev.2). For example, the most recently revised recommended procedures for the implementation of the transparency provisions of the Agreement, and the related format for the notification of SPS measures, request the identification of which Members or regions may be particularly affected by the measure being notified (G/SPS/7/Rev.2).<sup>34</sup>

35. Furthermore, in October 2004, the Committee finalized a procedure to enhance both the provision and the transparency of special and differential treatment or technical assistance (G/SPS/33). The decision by the Committee requires an importing Member to consider any requests for special and differential treatment or technical assistance which are made in response to the importing Member's notification of a new or modified SPS measure. The importing Member is to subsequently submit a specific addendum to its notification which indicates that special and differential treatment or technical assistance had been requested; the Member(s) affected; the concern(s) identified; if special and differential treatment was provided, and if so, the treatment provided. This procedure is intended to ensure that the importing Member consults with any developing country Member that has expressed a concern regarding the potential effect of the proposed new/modified measure on its exports with the aim of finding a means to address their concerns.<sup>35</sup> The notification of solutions ensures fullest transparency, especially for other developing country Members.

36. Each regular meeting of the SPS Committee provides any Member with the opportunity to raise specific trade concerns, including proposed measures not yet implemented. Unfortunately, many developing country Members, and in particular least-developed country Members, continue to find it difficult to participate in the meetings of the SPS Committee. Nonetheless, a growing number of developing countries are participating actively under this agenda item in the SPS Committee meetings. Developing country Members have raised 101 of the approximately 200 specific trade concerns with respect to measures proposed or taken by other trading partners which adversely affect their trade interests, although least-developed country Members have raised only two concerns.<sup>36</sup> In

<sup>30</sup> See proposals in paras. 9, 15 and 17 (a), (c) and (d).

<sup>31</sup> Available on-line at <http://stdfdb.wto.org>.

<sup>32</sup> G/SPS/GEN/549.

<sup>33</sup> Paragraphs 27 to 46 of document G/SPS/GEN/543 provide a summary description of recent actions taken to enhance the provision of SPS-related technical assistance.

<sup>34</sup> See proposal in para. 13.

<sup>35</sup> See proposals in paras. 9, 13, 14, 15 and 16.

<sup>36</sup> The European Communities was counted as one Member. Similarly, when one Member spoke on behalf of ASEAN, it was counted as one Member only. On certain issues, more than one Member has raised the same concern at a Committee meeting. Hence although the total number of specific trade concerns raised since 1995 is 204, the number of Members raising concerns, 246, is higher.



149 cases, a developing country Member has supported another Member raising an issue. In a number of cases, discussions in the Committee have provided the impetus for bilateral actions to resolve these problems.<sup>37</sup> Several developing country Members have also made use of the good offices of the Chair of the SPS Committee to seek resolution of specific trade problems.<sup>38</sup> The WTO also provides assistance to developing country Members, and in particular least-developed country Members, involved in dispute settlement proceedings, as does the Advisory Centre on WTO Law, established in 2001.<sup>39</sup>

## **VI. CONSTRAINTS TO FRAMING RECOMMENDATIONS**

37. The Committee faces a number of constraints in elaborating recommendations to ensure that the concerns of developing country Members are addressed in a precise, effective and operational manner. First, there has been a paucity of concrete recommendations submitted by Members since the Committee was first requested to consider this issue in 2003. Second, the proposals submitted in 2002 have implications at many levels, including at the bilateral level, within the WTO as a whole, within the SPS Committee, at the level of the international standard-setting bodies, as well as at technical levels for executing capacity building, and in political and negotiating contexts.

38. A number of the submitted proposals would require actions outside of the sphere of influence of the SPS Committee, such as actions by the international standard-setting bodies, or by other institutions. The SPS Committee could, however, agree to draw certain issues to the attention of these other bodies, and encourage WTO Members to pursue certain results within the context of Members' involvement in the work of these other bodies.

39. Of particular note is that the SPS Committee has only recently discussed the proposals and the underlying concerns with some specificity and frankness, and only recently have some concrete examples been described of problems due to the lack of specific trade-related, needs-based technical assistance or of special and differential treatment. Formulation of precise modifications or operational recommendations on the five proposals remains a challenge.

40. Finally, these discussions have revealed an "expectations gap" between Members. All Members acknowledge that better-targeted and more effective technical assistance aimed at specific results will benefit developing country Members. This can, however, only be achieved by more successful communications and competent teamwork among involved Members. This commitment appears necessary to, at minimum, maintain the market access opportunities for products from developing country Members.

## **VII. CONCLUSIONS**

41. The SPS Committee has to date been unable to develop any clear recommendations for a decision on the proposals on special and differential treatment referred to it by the General Council.

42. The Committee notes that some Members have indicated their intention to revise some of these proposals, and would welcome an opportunity to consider the revised proposals. Furthermore, the Committee agrees to continue to examine the proposals before it with the aim of developing specific recommendations.

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<sup>37</sup> G/SPS/GEN/204/Rev.5.

<sup>38</sup> Argentina, Chile, South Africa and Uruguay with respect to measures relating to citrus canker taken by the European Communities; the United States with respect to restrictions on wheat and oilseeds maintained by Poland; and Canada with respect to import restrictions on bovine semen maintained by India.

<sup>39</sup> [http://www.acwl.ch/e/index\\_e.aspx](http://www.acwl.ch/e/index_e.aspx)

43. Building on previous discussions in the SPS Committee on special and differential treatment and technical assistance, the SPS Committee agrees to expeditiously undertake discussions on further work to assist the Committee to address the concerns underlying the proposals as identified by Members with a view to fulfilling the Doha Development Mandate. The following represent some initial elements for this discussion:

- (a) Identify best practices, through which developing country Members, and in particular least-developed country Members, can become informed in a timely manner of SPS requirements of priority to their trade. The Committee will, *inter alia*, undertake to:
  - identify specific actions to make existing transparency procedures more effective and operational for developing country Members, and in particular least-developed country Members;
  - determine how Members and the Secretariat can facilitate such actions;
  - examine whether further changes in the recommended transparency procedures would be useful.
- (b) Identify means through which developing country Members, and in particular least-developed country Members, can more productively evaluate which SPS requirements of their trading partners present trade problems. The Committee will consider, *inter alia*:
  - the extent to which Members can more efficiently identify at the earliest possible stage potential trade problems for developing country Members, and in particular least-developed country Members;
  - if a forum for the exchange of comments on notifications can operationally address some key concerns of developing country Members, and in particular least-developed country Members;
  - if problems identified in respect to any specific notified measure are limited to a particular country or region, or if they represent a more systemic barrier for developing country Members, and in particular least-developed country Members.
- (c) Consider how developing country Members, and in particular least-developed country Members, can make greater use of the opportunities provided by the SPS Committee to identify and resolve specific trade concerns. The Committee will, *inter alia*, examine:
  - how to facilitate the effective participation of developing country Members, and in particular least-developed country Members, in the SPS Committee;
  - how to facilitate the use of existing or new mechanisms for resolving specific trade problems.
- (d) Develop more effective mechanisms to monitor the demand and supply of technical assistance with the objectives of improving predictability, timeliness and results relative to specific trade-related needs of developing country Members, and in particular least-developed country Members. The SPS Committee will, *inter alia*:

- evaluate the effectiveness of current sources of information on technical assistance, including the STDF database, the two SPS Secretariat questionnaires, and ad hoc summary submissions by Members;
  - identify mechanisms to provide opportunities for recipient countries to report on how they have utilized technical assistance received, and to identify areas where future technical assistance could be most effectively targeted;
  - identify mechanisms for the Committee to assess the overall effectiveness of current technical assistance programmes and the extent to which recipient countries have utilized available technical assistance to meet specified needs and achieve desired results;
  - consider how to improve "global SPS clearing-house" instruments to better align trade-related SPS technical assistance resources with assessed SPS needs;
  - identify how to reduce repetitive questionnaire requests to recipient Members, including through exploring the feasibility of establishing "balance sheets" on SPS-related technical assistance at the national level;
  - identify examples and pursue recommendations of how SPS capacity-building can be effectively integrated into national development plans;
  - identify how developing country Members, and in particular least-developed country Members, can more effectively request trade-related technical assistance, in particular through improved identification of, and access to, key technical assistance decision-making processes in both donor and recipient Members, and as appropriate, in other relevant bodies.
- (e) Develop best practices for SPS technical assistance under the WTO Global Trust Fund with the aim of making these programmes more effective, precise and operational. The Committee will, *inter alia*,
- identify ways to effectively improve and demonstrate specific results prior to, during and following national and regional training events, focusing on goal-oriented preparation, appropriate (decision-making) participants, and specific follow-up work programmes;
  - identify ways to improve the targeting of technical assistance by (i) evaluating, on the basis of feedback from recipients, the effectiveness of previous assistance, and (ii) identifying the specific needs of developing countries for future technical assistance.
  - develop an informal modus operandi to monitor the effectiveness and sustainability of SPS training events under the WTO Global Trust Fund;
  - evaluate the first WTO specialized course on the SPS Agreement to be held in the fall 2005 at the WTO Training Institute, and make recommendations as appropriate.



## **VIII. RECOMMENDATION**

44. The SPS Committee recommends that the General Council:

- (a) Take note of this report.
  - (b) Take note of the Committee's commitment to continue to examine the proposals before it, and any revision of these proposals, with the aim of developing specific recommendations for a decision.
  - (c) Take note of the Committee's commitment to expeditiously undertake discussions on further work to assist the Committee to address the concerns underlying the proposals as identified by Members.
  - (d) Instruct the Committee to report progress to the General Council on (b) and (c) above.
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## Committee on Sanitary and Phytosanitary Measures

### ACTIONS REGARDING SPS-RELATED PRIVATE STANDARDS

#### Decision of the Committee

#### INTRODUCTION

1. The SPS Committee has been discussing the issue of SPS-related private standards since June 2005, when Saint Vincent and the Grenadines raised a specific trade concern regarding EurepGAP (now called GLOBALGAP) requirements for bananas destined for sale in the United Kingdom.<sup>1</sup> Since then, private standards have been discussed regularly at SPS Committee meetings.
2. The SPS Committee decided in October 2008 to request an ad hoc working group to undertake a three-step study, and present a report proposing concrete actions for consideration by the Committee at the end of this process.<sup>2</sup>
3. The ad hoc working group on SPS-related private standards completed its work on identifying "Possible Actions for the SPS Committee Regarding SPS-Related Private Standards", and presented its report to the SPS Committee. The report of the working group is contained in document G/SPS/W/256.
4. At its meeting of 30-31 March 2011, the Committee adopted five of the six actions put forward by the working group for endorsement. The five actions are listed below. Endorsement of these actions is without prejudice to the views of Members regarding the scope of the SPS Agreement.

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#### **Action 1: The SPS Committee should develop a working definition of SPS-related private standards and limit any discussions to these.**

5. It is apparent from the discussions in the WTO and from the literature on this issue that private standards are already playing and will continue to play an increasingly important role in international trade and pose new challenges as well as opportunities for producers and exporters. They cover safety, quality, labour, social and environmental issues and can affect a wide range of products.
6. Given its mandate, the SPS Committee should focus any discussions solely on SPS-related private standards, most of which are currently in the area of food safety. However, some Members have expressed concerns that the discussions have covered issues beyond SPS-related private standards. One of the reasons for this is that many private standards include food safety as well as other requirements, making it more difficult to single out the SPS-related requirements and determine

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<sup>1</sup> G/SPS/GEN/766; specific trade concern no. 219.

<sup>2</sup> See paras. 4-7 of G/SPS/W/230 and paras. 122-137 of G/SPS/R/53.

whether any trade effects can be attributed directly to these. At the same time, producers and exporters do not necessarily focus on the distinction between SPS versus TBT measures or public versus private standards, but rather on whether they are able to fulfill all the requirements imposed by the importers.

7. Given its mandate, the SPS Committee would limit any discussions to:

Requirements which are established and/or adopted by non-governmental entities to fulfill one of the four objectives stated in Annex A, paragraph 1 of the SPS Agreement and which may affect international trade. These four objectives are:

- (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
- (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; and
- (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

**Action 2: The SPS Committee should regularly inform the Codex, OIE and IPPC regarding relevant developments in its consideration of SPS-related private standards, and should invite these organizations to likewise regularly inform the SPS Committee of relevant developments in their respective bodies.**

8. One of the concerns raised regarding SPS-related private standards has been that they sometimes deviate from the standards established by the international standard-setting bodies (ISSBs) referenced in the SPS Agreement, which are the Codex Alimentarius Commission (Codex), the World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPC). For example, in the area of food safety, some retail schemes have been identified as having maximum residue limits (MRLs) which are more restrictive than those set by Codex. In the area of animal health, examples of private standards with more trade-restricting BSE<sup>3</sup> requirements than those of the OIE have been provided.

9. Given the interlinkages between SPS-related private standards and the standards developed by Codex, OIE and IPPC, these bodies would benefit from regular information exchanges on this topic. In addition, the Secretariats of the four organizations should inform each other regarding their work in this area, keeping in mind that the scope of work on private standards in the international standard-setting bodies may not be the same as that of the SPS Committee. Such updates by the ISSBs could be presented under: "Information on Relevant Activities – Information from Observer Organizations".

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<sup>3</sup> Bovine Spongiform Encephalopathy.

**Action 3: The SPS Committee invites the Secretariat to inform the Committee on developments in other WTO fora which could be of relevance for its discussions on SPS-related private standards.**

10. Private standards play an increasingly important role in international trade and may become a subject of discussion in various formal or informal WTO fora. While such discussions are likely to go beyond SPS issues, there could also be linkages. For example, a private standard could contain both TBT as well as SPS-related requirements or its environmental requirements could cover SPS aspects. Also, horizontal concepts such as transparency could be considered. In this context, it would be beneficial for the SPS Committee to keep abreast of relevant developments in the WTO.

**Action 4: Members are encouraged to communicate with entities involved in SPS-related private standards in their territories to sensitize them to the issues raised in the SPS Committee and underline the importance of international standards established by the Codex, OIE and IPPC.**

11. The SPS Committee has been discussing the issue of SPS-related private standards since 2005. While Members are by now quite familiar with each other's concerns and positions on this issue, it is not clear to what extent entities involved in the development, application, certification, etc of SPS-related private standards are aware of the SPS Committee's discussions. The information sessions with the participation of representatives of such entities were useful in bringing to their attention some of the concerns raised in the SPS Committee as well as in updating the Committee on latest developments.

12. Given the multitude and diverse nature of entities involved in private SPS standards such as retail firms, producers, certifiers and NGOs, Member governments may be best placed to communicate with such entities as necessary. Such communication could be achieved through meetings or other means and encourage harmonization, mutual recognition of standards by private standard holders, cost reduction in the areas of compliance and certification, and further transparency and consultation mechanisms. It would also help Members build an understanding of the extent and functions of SPS-related private standards. One limitation that has been identified is that for some developing countries, such meetings might encompass only producers and exporters facing private SPS standards in their export markets and not those setting and applying such standards.

**Action 5: The SPS Committee should explore the possibility of working with the Codex, OIE and IPPC to support the development and/or dissemination of informative materials underlining the importance of international SPS standards.**

13. The responses to the Secretariat's questionnaire revealed that many producers and traders are not aware of the differences between public and SPS-related private standards. In an effort to provide further clarity on this issue and promote the use of international standards, the SPS Committee could explore the possibility of working with the Codex, OIE and IPPC to support the development and/or dissemination of informative materials. Such materials would underline the merits of science-based international standards, which, when adopted by Member governments and private schemes, serve to facilitate trade while ensuring safety. They would build on already existing materials.

14. A better global understanding could contribute to the further incorporation of these standards in public and private requirements and may also improve the ability of producers and exporters to negotiate with those setting private standards on the content of these standards.





**Committee on Sanitary and Phytosanitary Measures**

**PROCEDURE TO ENCOURAGE AND FACILITATE THE RESOLUTION OF  
SPECIFIC SANITARY OR PHYTOSANITARY ISSUES AMONG MEMBERS  
IN ACCORDANCE WITH ARTICLE 12.2**

**DECISION ADOPTED BY THE COMMITTEE ON 9 JULY 2014**

The Committee on Sanitary and Phytosanitary Measures ("the Committee"),

*Having regard* to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement");

*Seeking* to further encourage and facilitate the resolution of specific sanitary or phytosanitary issues among Members, in accordance with the provisions of Article 12.2 of the Agreement;

*Recalling* that the Working Procedures of the Committee permit the Chairperson of the Committee to assist Members to deal with any matter which has been raised under the Agreement, upon a request by the Members directly concerned;

*Noting* that the ad hoc consultation mechanism, foreseen in Article 12.2 of the Agreement and in the Working Procedures of the Committee, offers Members an additional route for dialogue and exchange of information on sanitary and phytosanitary concerns;

*Recalling* that during the reviews of the operation and implementation of the Agreement, Members recognized the usefulness of application of Article 12.2, and encouraged the use of ad hoc consultations, including through the good offices of the Chairperson of the Committee;

*Decides* as follows:

**1 GENERAL PROVISIONS**

1.1. This procedure is intended to encourage and facilitate the resolution of specific sanitary or phytosanitary issues among Members, with a view to assist Members to reach mutually satisfactory solutions, according to Article 12.2 of the Agreement. Member participation in this procedure is voluntary.<sup>[1]</sup>

1.2. This procedure is without prejudice to the rights and obligations of Members under the SPS Agreement or any other WTO agreement and shall not constitute a legally binding agreement. This procedure is not intended to prejudice in any way the process or outcome of the work of other WTO bodies.

1.3. Any Member(s) may at any time request consultations with another Member(s) regarding any sanitary and phytosanitary measure(s) as described in Annex A(1) of the SPS Agreement.

<sup>[1]</sup> By voluntary participation, it is understood that a Member that has received a request for consultation is free to accept or reject that request.

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## **2 PROCEDURE FOR ADDRESSING CONCERNS REGARDING SPS ISSUES**

### **2.1 Request for Consultations**

2.1. A Member (hereinafter the "requesting Member") requests consultations with another Member (the "responding Member"), in writing, in a WTO working language. The request will identify the measure(s) to be consulted on, describe the reasons for requesting consultations, and provide a description of the requesting Member's concern regarding the possible effects on trade. Further, the request may provide any preliminary questions and concerns regarding the measure(s), and may identify any relevant provision(s) of the Agreement and relevant international standards, guidelines or recommendations adopted by the pertinent international organizations as referred to in the Agreement.

2.2. In addition to sending the request to the responding Member, the requesting Member sends at the same time a copy of the request to the Chairperson of the Committee and the Secretariat. If the requesting Member wishes, a copy of the request or a summary thereof will also be made available to the Committee as a WTO document.

### **2.2 Response to a Request**

2.3. Unless otherwise mutually agreed upon by the responding and requesting Members, as provided below under paragraph 2.4, the responding Member will, within 30 days of receiving a request, provide a written response in a WTO working language simultaneously to the requesting Member, the Chairperson of the Committee and the Secretariat, accepting or rejecting the request for consultations. To the extent possible, when submitting a negative response, the responding Member will address the concerns and issues raised in the request. If the responding Member wishes, a copy of the response or a summary thereof will also be made available to the Committee as a WTO document.

2.4. In the event that both the requesting and responding Members mutually agree upon a timeframe other than the prescribed 30-day period, both Members should inform the Secretariat of the timeframe agreed upon prior to the expiration of the original 30-day period.

2.5. If both the requesting and responding Members wish to circulate their request and response to the Committee as WTO documents, the request and response would normally be circulated together. Circulation occurs upon the Secretariat's receipt of the response. In the event that the requesting Member chooses to circulate its request, but no response is received within the 30-day or otherwise agreed upon deadline, or if the responding Member declines to circulate its response, the request will be circulated without a response after the expiry of such deadline. Conversely, in the event that a responding Member chooses to circulate its response, but the requesting Member declines to circulate its request, the response will be circulated without the request, upon its receipt.

2.6. At the subsequent meeting of the Committee, the Chairperson will inform the Committee of any request for consultations made under this procedure since the last meeting of the Committee and the corresponding answer to that request (i.e., whether the request was accepted, rejected) and of all on-going consultations under a separate agenda item.

2.7. Any information considered confidential by any of the requesting or responding Members (hereinafter the "consulting Members") will not be shared with the Committee without their agreement.

### **2.3 Consultation Procedure**

2.8. When the responding Member has accepted the consultation request, the consulting Members will agree on a Facilitator. The Chairperson of the Committee will normally serve as the Facilitator, unless the consulting Members decide otherwise.

2.9. The role of the Facilitator is to encourage and facilitate an exchange between the consulting Members on specific SPS issues raised in the consultations with a view to resolving the issue. With the agreement of the consulting Members, the Facilitator may suggest one or more possible ways forward in an attempt to resolve the concerns.



2.10. At the start of consultations, the Facilitator and the consulting Members should agree on a schedule, format and place of meetings, and determine under what terms and conditions the input of technical expertise and third party participation is desirable.

2.11. The Facilitator shall communicate about the SPS issue in question only with the consulting Members and, in the event there are any, also with third party participating Members. Such communication shall be consistent with the terms agreed to in paragraph 2.12.

2.12. All communications (whether in oral or written form) in the course of the consultation between the Facilitator and consulting Members, and, where relevant, third party participating Members, shall be confidential. All documents generated by a Facilitator or a consulting or third party participating Member shall be confidential, unless otherwise agreed by the consulting Members, and without prejudice to the rights and obligations of a Member under the WTO Agreement, or any other international agreement to which it is a party.

2.13. The consulting Members shall complete the consultations within a reasonable period of time that shall be mutually agreed, and should not exceed 180 days, unless they agree on a different timeframe. Any of the consulting Members may decide to end the consultations at any time, and should do so through written notification to the other consulting Member(s). The Member or Members (if acting jointly) will promptly provide written notification to the Facilitator, the Chair and the Secretariat that the consultations have ended.

2.14. The Facilitator shall prepare and issue a written factual report on the consultations to the consulting Members, unless the consulting Members agree to prepare a joint report themselves. If prepared by the Facilitator, prior to issuing this report, the Facilitator will provide consulting Members with a draft report. Consulting Members shall normally be given 30 days to comment. The Facilitator shall issue a final, factual report to the consulting Members reflecting their comments. Unless otherwise agreed by the consulting Members, the Facilitator's or the consulting Members' report will be confidential and will not be shared with the Committee or any other Members or any other WTO body.

2.15. The Chair will report the general outcome of the consultations to the Committee in accordance with the established Working Procedures.<sup>2</sup> If agreed by all consulting Members, the Facilitator will make available the final factual report, or a summary thereof, to the Committee as a WTO document. The report will not contain confidential information unless all consulting Members consent to the inclusion of such information.

### **3 TECHNICAL ASSISTANCE**

3.1. Developing country Members, and in particular least-developed country Members, may request assistance from the WTO Secretariat to promote their understanding of the use and functioning of these procedures.

### **4 MONITORING**

4.1. The Secretariat will report once a year on the use of this procedure to the Committee.

### **5 REVIEW AND DURATION**

5.1. The Committee shall consider the implementation of this procedure as an integral part of the periodic review of the Operation and Implementation of the Agreement under Article 12.7. As part of that review, and no later than four years from the adoption of this procedure, the Committee shall decide whether to continue, modify or terminate this procedure in light of the experience of Members in its implementation and relevant developments in other WTO bodies.

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<sup>2</sup> G/SPS/1, paragraph 6.





**Committee on Sanitary and Phytosanitary Measures**

**REVIEW OF THE OPERATION AND IMPLEMENTATION  
OF THE SPS AGREEMENT**

REPORT ADOPTED BY THE COMMITTEE ON 14 JULY 2017<sup>1</sup>

**1 INTRODUCTION**

1.1. Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement") provides that "the Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises". A First Review of the Agreement was completed in March 1999.<sup>2</sup>

1.2. At the Fourth Session of the Ministerial Conference, Ministers instructed the Committee to review the operation and implementation of the Agreement at least once every four years. The Second Review of the Agreement was completed in July 2005<sup>3</sup> and the Third Review in May 2010.<sup>4</sup> At its October 2013 meeting, the Committee adopted a procedure and timetable to undertake the Fourth Review of the Agreement.<sup>5</sup> The Review process provided a number of opportunities for Members to identify issues to be addressed as part of the Fourth Review, and submit specific proposals on the identified issues. Since October 2013, the Committee has held informal and formal meetings to consider the issues and proposals identified by Members. The draft report of the Review<sup>6</sup> was discussed at the July 2014 meeting of the Committee and Members were invited to submit written comments on the draft report by 31 July 2014.

1.3. In accordance with the procedures for the Fourth Review, the Committee considered the revised report of the Review<sup>7</sup> for adoption at its October 2014 meeting. The report was further revised<sup>8</sup> based on Members' comments and suggestions at the October 2014 meeting, and Members were invited to submit comments in writing by the end of 2014, with a view to its adoption during the March 2015 regular meeting. Members accepted the inclusion of the first two suggestions contained in document G/SPS/W/282. However, the Committee did not reach consensus on the report's adoption and Members continued discussions during 2015 and 2016 to bridge differences particularly on a recommendation under section 14 on SPS-related private standards. At its July 2017 regular meeting, the Committee agreed on the inclusion of new language in section 14, circulated in document RD/SPS/15 and adopted the report on the Fourth Review of the Operation and Implementation of the SPS Agreement.

1.4. As in the preceding reviews, in the Fourth Review the Committee has considered operation and implementation issues related to:

- Monitoring the use of international standards (Article 3.5 and 12.4);
- Equivalence (Article 4);
- Consistency (Article 5.5);

<sup>1</sup> This report reflects the work of the SPS Committee as of October 2014, except where stated otherwise.

<sup>2</sup> G/SPS/12.

<sup>3</sup> G/SPS/36.

<sup>4</sup> G/SPS/53.

<sup>5</sup> G/SPS/W/270 and G/SPS/W/270/Add.1.

<sup>6</sup> G/SPS/W/280.

<sup>7</sup> G/SPS/W/280/Rev.1.

<sup>8</sup> G/SPS/W/280/Rev.2.

- Regionalization (Article 6);
- Transparency (Article 7 and Annex B);
- Technical assistance and training activities (Article 9);
- Special and differential treatment (Article 10);
- Dispute settlement activities (Article 11);
- Implementation of the Agreement (Articles 12.1 and 12.2) – Specific trade concerns;
- Implementation of the Agreement (Article 12.2) – Use of ad hoc consultations;
- Cooperation with Codex Alimentarius (Codex), International Plant Protection Convention (IPPC) and the World Organisation for Animal Health (OIE) (Article 12.3);
- Good regulatory practice; and
- SPS-related Private Standards.

1.5. In addition, in this Fourth Review the Committee also considered:

- Risk Analysis: risk assessment (Article 5), risk management and communication; and
- Catalogue of instruments to manage SPS issues.

1.6. Information presented in this document, particularly in sections 6 and 10 below, has been retrieved from the SPS Information Management System (SPS IMS: <http://spsims.wto.org>). The categories of level of development and the geographical groupings used rely on the WTO IDB reference database ([idb@wto.org](http://idb.wto.org)).

1.7. Appendix A of this document provides a summary of Committee activities between the Third Review in 2010 and October 2014. Appendix B provides a list of documents submitted by Members during that same period relevant to the various issues raised in this report. Appendix C provides information about SPS-related dispute settlement activities in this period.

## **2 MONITORING THE USE OF INTERNATIONAL STANDARDS (ARTICLES 3.5 AND 12.4)**

2.1. Articles 3.5 and 12.4 of the SPS Agreement require the Committee to develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines and recommendations. The Committee initially adopted a monitoring procedure in 1997, which was revised in November 2004.<sup>9</sup> In June 2006, the Committee decided to extend this procedure indefinitely, and to review its operation as an integral part of the periodic review of the operation and implementation of the Agreement under Article 12.7.

2.2. The monitoring of the use of international standards is a standing item on the agenda of regular Committee meetings and, in accordance with the agreed procedure, the Committee has produced annual reports relating to the process of monitoring international harmonization.<sup>10</sup>

2.3. In October 2010, Members agreed to prioritize three issues for consideration under the work of the Committee arising from the Third Review: (i) the cooperation between the SPS Committee and the Three Sisters; (ii) improving the procedure for monitoring the use of international standards; and (iii) control, inspection and approval procedures (Article 8 and Annex C).<sup>11</sup>

2.4. In June 2011, there was discussion related to the lack of adoption of Codex standards relating to ractopamine.<sup>12</sup> Several Members were concerned that unjustified opposition to the adoption of a science-based international standard threatened the institutional integrity of the Codex. Furthermore, non-adoption of MRLs could result in systemic problems that jeopardized Codex' role in food safety and posed a risk to the credibility of JECFA, the scientific advisory body of the Codex, and Codex. These Members all shared the concerns that had been raised regarding

<sup>9</sup> G/SPS/11/Rev.1.

<sup>10</sup> G/SPS/37, G/SPS/42 and G/SPS/42/Corr.1, G/SPS/45, G/SPS/49, G/SPS/51 and G/SPS/51/Corr.1, G/SPS/54, G/SPS/56, G/SPS/59, G/SPS/GEN/1332.

<sup>11</sup> G/SPS/GEN/1086.

<sup>12</sup> G/SPS/GEN/1092 and G/SPS/56.

the need to ensure that the basic principles and processes of Codex be respected.<sup>13</sup> At the same time, other Members, while recognising the importance of science in the development of international standards, emphasised that it was imperative to understand the role of science as part of the risk analysis approach. Codex, as a risk manager, had to consider a wider range of factors. These Members shared the concern that overlooking divergent scientific conclusions and the lack of a consensus on the adoption of MRLs for ractopamine would create systemic concerns and jeopardize the role of Codex as the leading food safety standard-setting body. In October 2012, Members drew attention to Codex' adoption of specific MRLs for ractopamine, on 7 July 2012.

2.5. At the March 2012 meeting, some Members raised a horizontal concern regarding the number of SPS measures that were not based on international standards, guidelines and recommendations.<sup>14</sup> These Members reaffirmed: (i) the need for science-based international guidelines, standards and recommendations; (ii) the need to support and strengthen confidence in SPS international standard-setting bodies; and (iii) the need for SPS measures that resulted in a higher level of protection than would be achieved by measures based on the relevant international standards to be established on the basis of science.

2.6. In July 2012, Argentina submitted a proposal<sup>15</sup> to revise the monitoring procedure<sup>16</sup> so as to enable the Secretariat to include, in the annual report, issues that had been raised under the agenda item on Specific Trade Concerns when these related to the non-use of international standards or the absence of existing standards, unless the submitting Member requested otherwise. While agreeing that the monitoring procedure appeared to be under-utilized, some Members noted that no clear problem with the procedure had been articulated and maintained that it was their right to decide under which agenda item they wished to raise such problems. The Chairperson encouraged bilateral discussions among Members on the subject.

2.7. Also in July 2012, Brazil noted the increase in demand for scientific advice to support food control systems and the need for Members to ensure that adequate resources were available for these bodies to carry out their functions.<sup>17</sup> In particular, a number of Members agreed on the crucial role of the scientific advice bodies.

2.8. At the October 2012 meeting, the United States encouraged all Members to promote the use of international standards in their national SPS programmes and to actively participate in the on-going work of the three standard-setting bodies recognised under the SPS Agreement, as international standards were critical for ensuring safe food for consumers and facilitating trade. Members also stressed the importance of international standards and emphasized that international standard-setting bodies needed to be inclusive to achieve harmonization.<sup>18</sup>

2.9. Codex indicated that it did not have a specific system of monitoring like the IPPC, but regularly gathered information on how Codex standards were being used, the needs of member countries and/or why standards were not being used in certain regions. Codex used a questionnaire for this monitoring process.<sup>19</sup>

2.10. At the October 2012 and March 2013 meetings of the Committee, the IPPC reported on its Implementation Review and Support System (IRSS).<sup>20</sup> The IRSS provides a help desk to address specific issues identified by members. A summary of the major actions, review and support activities completed through the IRSS can be found in G/SPS/GEN/1225.

2.11. In June 2013, Argentina and Chile reiterated their proposal that the SPS Committee's monitoring procedure adequately reflect how international standards are used by Members.

<sup>13</sup> The concern was first raised by Brazil at the October 2009 Committee meeting. The issue was raised again at the June 2010 Committee meeting. At the meeting of March 2011, Brazil noted the continuing failure of Codex to adopt MRLs for ractopamine.

<sup>14</sup> G/SPS/GEN/1143/Rev.2.

<sup>15</sup> G/SPS/W/268.

<sup>16</sup> G/SPS/11/Rev.1.

<sup>17</sup> G/SPS/GEN/1165 and G/SPS/59.

<sup>18</sup> G/SPS/W/269.

<sup>19</sup> *Ibid.*

<sup>20</sup> G/SPS/GEN/1204.

Argentina noted that the topic of monitoring the use of international standards could be addressed in the context of the Fourth Review of the Operation and Implementation of the SPS Agreement.

2.12. In October 2013, Argentina recalled its proposal and suggested that this topic be addressed in the context of the Fourth Review, and in particular that it could be included in the catalogue of tools available to WTO Members for the management of SPS issues proposed by Canada.<sup>21</sup>

2.13. The IPPC reported on the activities of the Implementation Review and Support System (IRSS), including a general survey on the IPPC and 32 standards.<sup>22</sup> The IPPC requested contracting parties to complete a survey on pest reporting and regulated pest listing as soon as possible, as this information would help identify ways that the IPPC Secretariat and the IRSS program could better assist countries to fulfil related IPPC obligations. The IRSS website and help desk had been launched and IPPC was seeking donors for translation of existing IRSS analyses, tools and resources, as well as donors for the second 3-year cycle of the IRSS.

2.14. *Recommendations:*

- *The Committee should continue to monitor the use of international standards at each of its regular meetings (G/SPS/11/Rev.1). It should continue to review the monitoring procedure as part of the periodic reviews of the SPS Agreement, as foreseen in the Decision to Modify and Extend the Provisional Procedure to Monitor the Process of International Harmonization.*<sup>23</sup>
- *Members are encouraged to provide information regarding their experiences, or lack thereof, in the implementation of international standards (Articles 3.5 and 12.4).*
- *Members should ensure their full implementation of the transparency provisions of the SPS Agreement, and to the extent possible, follow the recommended procedures established by the Committee (G/SPS/7/Rev.3), including those relating to the notification of measures conforming to international standards.*

### 3 EQUIVALENCE (ARTICLE 4)

3.1. The Committee adopted an initial decision regarding the implementation of Article 4 on equivalence in October 2001. This initial decision included a commitment to develop a specific work programme to further the implementation of Article 4, which was concluded by the adoption of the current version of the equivalence guidelines in July 2004<sup>24</sup> and the agreement that equivalence would be a standing agenda item for the regular meetings of the Committee.

3.2. In March 2011, Chile reported that it was working with the European Union on two issues relating to equivalence as outlined in their Plan of Action Agreement, namely with regard to molluscs and exports of EU packaged beef. This is the only experience regarding equivalence that has been reported to the Committee.

3.3. In October 2011, Codex provided information regarding the development of guidelines for the judgement of equivalence of food control systems by the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS). It was proposed that the principle of recognition, which provides that other systems could be capable of meeting the same food safety objectives, be included in the general guidelines for food control systems. This could be applied at the national and international levels. The Principles and Guidelines for National Food Control Systems were adopted by Codex at its 36<sup>th</sup> session in July 2013.<sup>25</sup> Codex guidelines already exist for the development of equivalence agreements regarding import and export certification and inspection systems and for the judgment of equivalence of sanitary measures.

3.4. In March 2012, IPPC indicated that it had engaged CABI to undertake a study on the application of the concept of equivalence in the phytosanitary area. ISPM 24, adopted in 2005, provides guidelines for determination and recognition of equivalence of phytosanitary measures,

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<sup>21</sup> G/SPS/W/279/Rev.1.

<sup>22</sup> G/SPS/GEN/1284.

<sup>23</sup> G/SPS/40, paragraph 2.

<sup>24</sup> G/SPS/19/Rev.2.

<sup>25</sup> CAC/GL 82-2013.

and ISPM 1 includes principles on equivalence. In the case of the IPPC, equivalence is managed at the level of application of phytosanitary measures. These measures are applied as single measures, combined measures, or as a package of measures in systems approaches. Most of these measures are negotiated based on agreements at bilateral or multi-lateral levels. The study seeks to provide a clearer picture of the importance and frequency of the use of this concept and recognition of the IPPC's application of the concept.

3.5. The OIE has developed guidelines for determining the equivalence of sanitary measures contained in Article 5.3 of the Terrestrial Animal Health Code.

3.6. *Recommendations:*

- *The Committee should maintain equivalence as a standing item of the agenda for its regular meetings.*
- *Members are encouraged to provide information regarding their experiences, or lack thereof, in the implementation of Article 4 and in the use of the guidance developed by the Committee (G/SPS/19/Rev.2). In particular, Members are encouraged to notify any agreement reached on the recognition of equivalence in accordance with the agreed procedure.*
- *The relevant international organizations are invited to keep the Committee informed of any work they undertake with regard to the recognition of equivalence.*

#### 4 CONSISTENCY (ARTICLE 5.5)

4.1. Article 5.5 required the Committee to develop guidelines to further the practical implementation of that provision. The Committee adopted such guidelines (G/SPS/15) in July 2000, and subsequently agreed to review them as part of the periodic reviews of the operation and implementation of the SPS Agreement. To date no Member has suggested a need to modify these guidelines. Although there is no standing agenda item regarding Article 5.5, there is opportunity for Members to provide information regarding their experiences in this regard under the Agenda Item "Activities of Members".

4.2. *Recommendations:*

- *Members are encouraged to provide information regarding their experiences in the implementation of Article 5.5 and in the use of the guidelines (G/SPS/15).*
- *As foreseen in the Guidelines to further the Practical Implementation of Article 5.5 and in the Third Review, the Committee should continue to review these guidelines as part of the periodic reviews of the SPS Agreement.<sup>26</sup>*

#### 5 REGIONALIZATION (ARTICLE 6)

5.1. Following adoption of the "Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures", the Committee agreed to monitor the implementation of Article 6, on the basis of information provided by Members through notifications and from information presented during SPS Committee meetings, and to revise the guidelines, if necessary, in light of experience gained through the implementation of the Agreement and the use of the guidelines themselves. Three reports have been issued by the Secretariat: the first one covering the year 2009 through the end of 2011<sup>27</sup>; the second one covering the year 2012 through the first quarter of 2013<sup>28</sup>; and the third one covering the period from 1 June 2013 until 31 March 2014.<sup>29</sup>

5.2. Both the IPPC and the OIE have provided guidance for countries seeking to establish, or to be recognized for, pest- or disease-free status.

<sup>26</sup> Introduction, G/SPS/15 and paragraph 14, G/SPS/53.

<sup>27</sup> G/SPS/GEN/1134.

<sup>28</sup> G/SPS/GEN/1245.

<sup>29</sup> G/SPS/GEN/1333.



5.3. The IPPC currently has several directly relevant standards: ISPM 4 on requirements for the establishment of pest-free areas; ISPM 10 for the establishment of pest-free places of production and production sites; ISPM 22 on requirements for the establishment of areas of low pest prevalence; ISPM 26 on the establishment of pest-free areas for fruit flies; and ISPM 29 on the recognition of pest-free areas and areas of low pest prevalence. In addition, IPPC has a number of supporting standards, including guidelines for pest surveillance.

5.4. The IPPC concluded a study on the implementation by its members of their national reporting obligations in May 2013. The study found that WTO Members had notified to the IPPC less than 5% of the obligatory information that they were reporting to the WTO Secretariat. This could be due to a lack of understanding, communication, resources, capacities or coordination. Governments should be aware that providing information regarding pests at the SPS Committee meetings or through SPS notifications is not sufficient to meet their obligations under the IPPC or the OIE.<sup>30</sup>

5.5. The OIE Terrestrial Animal Health Code describes the requirements for obtaining disease-free status including requirements for surveillance and monitoring based on the concept of geographic zones. During its annual General Sessions the OIE has adopted a number of resolutions related to recognition of disease-free areas. In 2011 the World Assembly adopted Resolution 18, declaring that the world had achieved freedom from rinderpest. This is the first animal disease eradicated globally, and represents a great achievement of national Veterinary Services.<sup>31</sup>

5.6. At the 80<sup>th</sup> General Session, in 2012, the OIE adopted the revised Chapter 12.1 on African horse sickness (AHS), and from 2013, AHS is one of the diseases for which OIE provides official disease status recognition. During the 81<sup>st</sup> General Session, in 2013, the Assembly adopted the revised Chapters 14.8 and 15.2 to provide official recognition of disease-free status for peste des petits ruminants and swine fever. Official free status recognition by the OIE can now be granted for six diseases: foot-and-mouth disease (FMD); African horse sickness (AHS); classical swine fever (CSF); contagious bovine pleuropneumonia (CBPP); peste des petits ruminants (PPR); and bovine spongiform encephalopathy (BSE).<sup>32</sup>

5.7. The OIE has undertaken, in collaboration with the CBD Secretariat, to consider the development of guidelines on risk assessment for invasive animal species.<sup>33</sup> Two volumes of the OIE Scientific and Technical Review were dedicated to the issue of invasive species (G/SPS/GEN/1043).<sup>34</sup>

5.8. In June 2013 the OIE tabled a document describing the OIE BSE risk assessment process that had been in place since 2004.<sup>35</sup> OIE also indicated that the latest results of the official disease status recognition of OIE members were available for FMD, BSE, contagious bovine pleuropneumonia and, for the first time, also for African Horse sickness.<sup>36</sup>

#### 5.9. Recommendations:

- *The Committee should maintain regionalization as a standing item of the agenda for its regular meetings.*
- *Members are encouraged to provide information on their experiences in the implementation of Article 6, including on the use of the Guidelines adopted by the Committee in that regard (G/SPS/48).*

<sup>30</sup> For more information on the IPPC work, see documents G/SPS/GEN/1321, G/SPS/GEN/1344, G/SPS/GEN/1345 for 2014; G/SPS/GEN/1226, G/SPS/GEN/1247, G/SPS/GEN/1283 for 2013; G/SPS/GEN/1152, G/SPS/GEN/1171, G/SPS/GEN/1201 for 2012; G/SPS/GEN/1102, G/SPS/GEN/1123 for 2011; and G/SPS/GEN/999, G/SPS/GEN/1028, G/SPS/GEN/1049 for 2010.

<sup>31</sup> See for more information Annex 1 of document G/SPS/GEN/1096.

<sup>32</sup> The full list of countries and their recognised disease status for FMD, CBPP, BSE and AHS can be found in Annex 1 of document G/SPS/GEN/1255.

<sup>33</sup> G/SPS/GEN/1120.

<sup>34</sup> See for more information on the OIE work documents G/SPS/GEN/1317, G/SPS/GEN/1343 for 2014; G/SPS/GEN/1231, G/SPS/GEN/1255, G/SPS/GEN/1277 for 2013; G/SPS/GEN/1141, G/SPS/GEN/1164, G/SPS/GEN/1198 for 2012; G/SPS/GEN/1073, G/SPS/GEN/1096, G/SPS/GEN/1120 for 2011; and G/SPS/GEN/1000, G/SPS/GEN/1024, G/SPS/GEN/1043 for 2010.

<sup>35</sup> G/SPS/GEN/1256.

<sup>36</sup> G/SPS/GEN/1255.



- *The observer organizations are invited to keep the Committee informed of their activities relevant to the recognition of pest- or disease-free areas or areas of low pest or disease prevalence.*

## 6 TRANSPARENCY (ARTICLE 7 AND ANNEX B)

6.1. A step-by-step procedural manual for the operation of Enquiry Points and National Notification Authorities was made available in February 2011, on the basis of the transparency procedures and notification formats contained in G/SPS/7/Rev.3.<sup>37</sup>

6.2. Up-to-date information on SPS notifications as well as Committee documents, specific trade concerns and Members' National Enquiry Points and Notifications Authorities continues to be available electronically via the SPS Information Management System (SPS IMS). This facilitates the conduct of searches according to specific needs and interests (product codes, geographic groups, etc.) and also the preparation of reports and summaries which can be shared with interested stakeholders.

6.3. At the March 2011 meeting, the Secretariat launched the SPS Notification Submission System (SPS NSS) which allows National Notification Authorities to fill out and submit SPS notifications online. The SPS NSS allows for more accurate and complete notifications, and a substantial reduction in the time required for the WTO to circulate them. The system was made available to Members on 1 June 2011 upon request. Interested Members are requested to send an email to the Secretariat so that their National Notification Authority can receive a login name and access passwords. As of mid-September 2014, 56 Members had requested and been given access to the system, and 31 of these have officially submitted notifications via the SPS NSS. About half of SPS notifications are now submitted via the online system.

6.4. The Secretariat organized workshops on transparency in October 2010 and 2012 (see also paragraph 6.8 below). The latter was the fourth SPS workshop on transparency organized by the WTO Secretariat since 1999. The workshop was a highly interactive, "hands-on" training event focussing in particular on the use of the SPS IMS and SPS NSS, as well as sharing of national experiences thereof. This training was complemented by information from Codex, IPPC and OIE ("Three Sisters") on their online tools.

6.5. The main recommendations from the October 2012 workshop involved the following issues: suggestions for technical and substantial changes to the SPS IMS and SPS NSS; and the need to provide LDCs with training in the use of the SPS NSS. Budgetary approval was granted in 2014 for a project to improve the two systems. Training to LDCs and other developing country Members has become a regular component of technical assistance activities. In addition, the WTO Secretariat has provided demonstration sessions on the SPS IMS and the SPS NSS during the SPS Committee meetings and responded to ad hoc requests from Members and other interested parties for assistance.

6.6. The Secretariat continues to provide annual updates on the level of implementation of the transparency provisions of the SPS Agreement; the latest revision to the background note, G/SPS/GEN/804/Rev.7, was issued in October 2014. The SPS IMS facilitates the compilation and analysis of data related to the implementation of the transparency provisions. Furthermore, Members' implementation of the recommendations on transparency, as provided for in G/SPS/7/Rev.3, should result in substantially enhanced information.

6.7. Managing information on transparency remains, however, challenging for many developing country Members and many have flagged their need for assistance and support to resolve their individual transparency difficulties, for example with the process of sending notifications to the WTO. Other difficulties faced by developing country Members relate to the operation of their SPS National Notification Authority and their National Enquiry Point(s).

6.8. As of mid-September 2014, Members had submitted 11,612 regular notifications, 1,589 emergency notifications (plus related addenda and corrigenda). The Committee has also adopted a special format and recommended procedures for the notification of determination of the

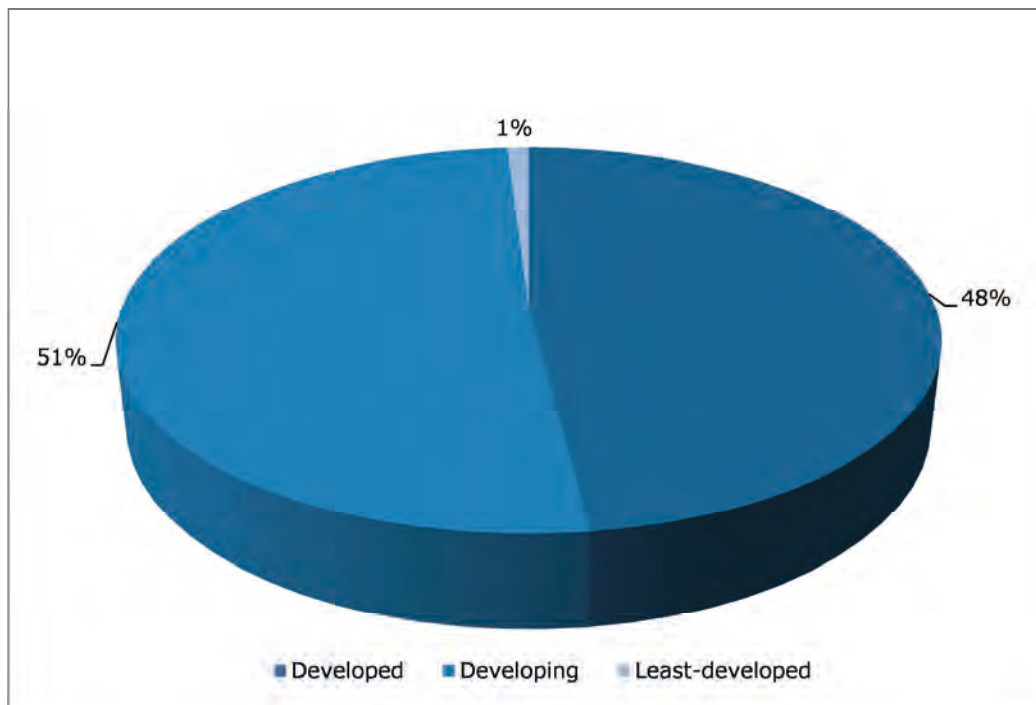
<sup>37</sup> [http://www.wto.org/english/tratop\\_e/sps\\_e/transparency\\_toolkit\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/transparency_toolkit_e.htm).

recognition of equivalence of sanitary or phytosanitary measures, now included in the transparency procedures. Furthermore, the Secretariat has established a mechanism for Members to inform each other of the availability of translations of notified measures into one of the official languages of the WTO. These are submitted in the form of supplemental notifications. As of mid-September 2014, two equivalence and 18 supplemental notifications had been circulated.

6.9. Out of the 160 WTO Members, 111 (69%) had submitted at least one notification to the WTO. Members which had not submitted any notification included 19 developing countries, 21 LDCs, and one developed country. In addition, a number of EU member States have not submitted notifications; however, most SPS measures are notified by the European Union on behalf of all its member States.<sup>38</sup>

6.10. As can be seen in Chart 1, the share of notifications submitted by developing country Members (excluding LDCs) reaches 51% while the share of those submitted by developed country Members is 48%, reflecting the steady increase in notifications from developing country Members over the years. A very small share comes from LDCs.

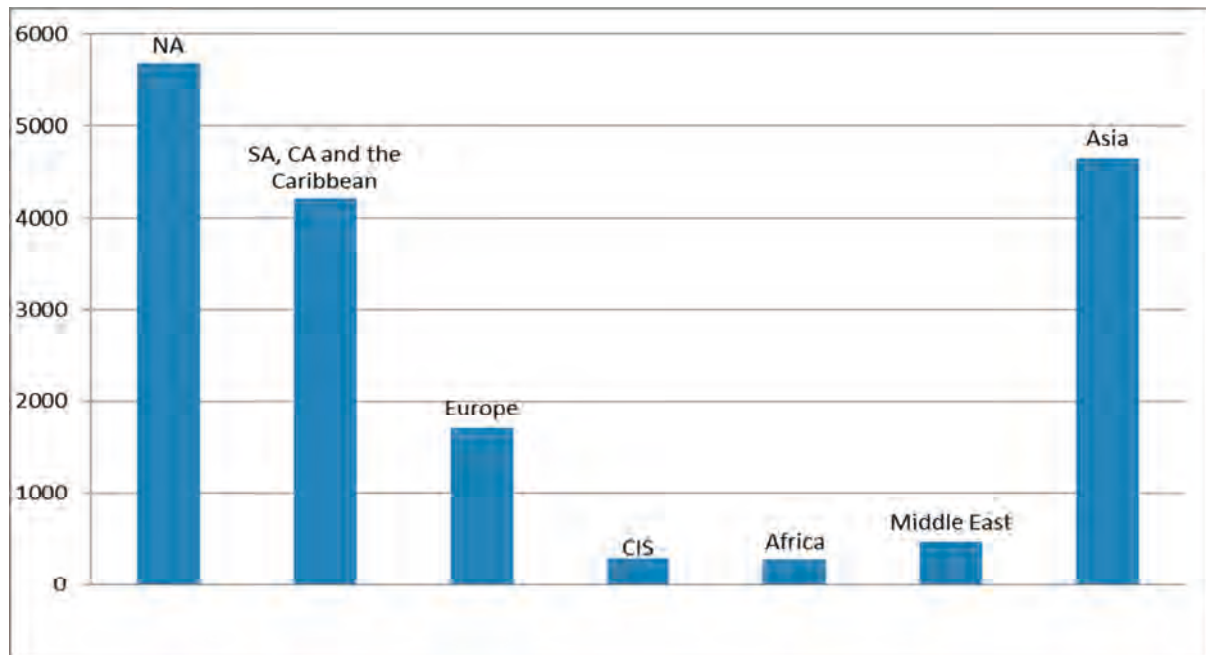
**Chart 1 – Development status of notifying Members as of 15 September 2014**



6.11. Looking at the geographic regions from which the notifications originate, Chart 2 shows that the majority of notifications come from North America, followed by Asia, and then South and Central America and the Caribbean.<sup>39</sup>

<sup>38</sup> See G/SPS/GEN/456 for notification procedures for the European Union and its member States.

<sup>39</sup> The geographical groupings used rely on WTO working definitions as identified in the Integrated Database (IDB) for analytical purposes. The same groupings are used in the WTO Annual Reports. North America (NA) here, as well as in Chart 2, includes Canada, Mexico and the United States.

**Chart 2 – Notifications by geographical region as of 15 September 2014**

6.12. Under the SPS Agreement, Members are required to notify both an Enquiry Point to provide answers to all reasonable questions from interested Members and a National Notification Authority to implement the notification procedures detailed in the Agreement. Among the 160 WTO Members, 152 Members had, as of mid-September 2014, designated a "Notification Authority". Those which had not yet done so include six LDCs and two developing country Members. Of the 160 WTO Members, 155 had provided the WTO with the contact information of their Enquiry Point(s). Those which had not done so included four LDCs and one developing country. The updated lists containing the contact information of National Enquiry Points and of National Notification Authorities are available from the SPS IMS.

6.13. At each meeting, Members are invited to raise any questions or concerns with regard to the implementation of the transparency provisions of the Agreement. Contributions made by Members since 2010 are listed in Appendix A.

6.14. Transparency regarding SPS measures and policies is also provided by Members reporting on relevant activities and developments under the agenda item "Information from Members". Members frequently use this opportunity to present information on new regulatory policies, risk assessment practices, establishment of national SPS coordinating committees, etc. The standard-setting observer organizations also provide relevant information under this agenda item, further enhancing transparency.

6.15. In the context of the Fourth Review, the European Union, Chile, Morocco and Norway made submissions related to transparency.<sup>40</sup> At the March 2014 meeting, the European Union noted that with the rapidly growing number of SPS notifications, it was crucial that the information provided be clear, complete, reliable and timely. It proposed that the recommended procedures be reviewed, with a view to improve such matters as: (i) the quality and completeness of the information provided in the notification; (ii) the timeliness of the publication of regular and emergency notifications; (iii) interactions with trading partners; and (iv) access to all measures adopted and proposed by a Member. Many Members recognized the importance of transparency and supported the proposal, and one Member suggested that it was also important to identify the problems encountered by countries and further improve technical assistance in this area.

6.16. The Secretariat recalled that the Committee had agreed to hold a transparency workshop every three years and that the next one would take place in 2015. This was an opportunity to

<sup>40</sup> EU general communication, G/SPS/W/274, and the joint submission by Chile, the European Union, Morocco and Norway, G/SPS/W/277.

ensure the participation of a large number of national notification authorities to discuss and agree on changes to notification formats and templates. The Secretariat also reported that a project to revise and modernize the SPS NSS and SPS IMS tools had been approved and would start in 2014.

6.17. Chile, the European Union, Morocco and Norway submitted a proposal for actions related to the fulfilment of transparency obligations. They proposed that actions take two forms: (i) specific proposals for modifications in the Recommended Procedures for implementing the Transparency Obligations of the SPS Agreement (Article 7)<sup>41</sup>; and (ii) recommendations to the Secretariat on revising and modernizing the SPS Information Management System and (SPS IMS) and Notification Submission System (SPS NSS).<sup>42</sup> The European Union stressed that the rationale for the proposal was to improve the quality and completeness of notifications. Norway further stressed the issue of timeliness of regular and emergency notifications, and Chile highlighted the issue of compliance with international standards and the need to define criteria for trade facilitating measures.

6.18. The Secretariat welcomed proposals to improve the quality and completeness of notifications as well as specific guidelines for the Secretariat as of how to address the issues presented in the proposal. The Secretariat encouraged Members to use the online SPS NSS, which facilitates the notification process, and drew attention to recent improvements in the WTO Documents Online application.

6.19. Argentina suggested that a diagnosis of the needs of and difficulties encountered by Members could be carried out through questionnaires or workshops, to provide useful input before changing the current notification procedures.

6.20. At the October 2014 Committee meeting, the European Union thanked several Members for their comments. The proponents noted that there seemed to be a general agreement on the importance of the transparency provisions and the need to improve their implementation before considering a revision of the current Recommended Transparency Procedures as contained in G/SPS/7/Rev.3. The proponents were open to considering alternative approaches on how to move forward with this issue, in particular in preparation of the October 2015 transparency workshop.

6.21. The Secretariat suggested that such a diagnosis of the needs and difficulties of Members be carried out through a questionnaire, similarly to what had been done for past transparency workshops. It was also possible that some of the problems encountered by Members could be addressed within an on-going project that aimed to improve and modernize the SPS IMS and NSS applications. Members were invited to submit suggested questions for inclusion in the questionnaire by 28 November 2014.

6.22. Recommendations:

- *The Committee should maintain transparency as a standing item of the agenda for its regular meetings.*
- *Members should ensure their full implementation of the transparency provisions of the SPS Agreement, and to the extent possible, follow the Recommended Procedures established by the Committee in G/SPS/7/Rev.3.*
- *Developing country Members should clearly identify specific problems they face in implementing the transparency provisions of the Agreement. Assistance should be provided to least-developed and developing country Members, and to their National Notification Authority and Enquiry Points, as required, in order to enable them to fully implement the transparency provisions and to make use of the benefits associated with transparency.*
- *Recognizing that the Recommended Procedures established by the Committee (G/SPS/7/Rev.3), while not creating legal obligations, can facilitate Members' implementation of the provisions of the SPS Agreement, the Committee should consider, as appropriate:*

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<sup>41</sup> G/SPS/7/Rev.3.

<sup>42</sup> G/SPS/W/278, dated 26 May 2014.

- *Specific proposals for modifications in the Recommended Procedures for implementing the Transparency Obligations of the SPS Agreement (Article 7), taking into account Members' difficulties in implementing them; and*
- *Recommendations to the Secretariat to take into account when revising and modernizing the SPS Information Management System and (SPS IMS) and Notification Submission System (SPS NSS).*

## 7 TECHNICAL ASSISTANCE AND TRAINING ACTIVITIES (ARTICLE 9)

7.1. Technical assistance is a standing agenda item. At each regular meeting, Members and Observers are invited to identify any specific technical assistance needs which they may have, and/or to report on any SPS-related capacity building activities in which they are involved.

7.2. A number of Members have used the occasion of the SPS Committee meetings to comment on particular projects or activities that have enhanced their capacity to implement and benefit from the SPS Agreement. Some Members, in particular Australia, Canada, the European Union, Japan and the United States, have provided periodic updates regarding their SPS-related technical assistance activities.<sup>43</sup>

7.3. In July 2014, Australia reported on its SPS-related technical assistance aimed at helping developing country Members adjust to, and comply with, SPS measures in their export markets, as well as to improve their capacity to develop and implement their own SPS measures based on science. Between July 2011 and June 2013, technical assistance activities funded by Australia amounted to over AUD 55 million, benefitting 51 developing countries.<sup>44</sup>

7.4. Canada provided information on its technical assistance to developing countries in calendar year 2013.<sup>45</sup> Canada delivered or initiated a total of 17 SPS-related technical assistance projects targeting various geographic regions, amounting to approximately CAD 7.74 million. Of note, a third contribution of CAD 1 million – part of a multi-year, multi-million dollar contribution – was made by Canada to the STDF.

7.5. Japan provided an update on SPS-related technical assistance it had delivered between 1 April 2013 and 31 March 2014.<sup>46</sup> Since 2009, 48 programmes on technical assistance had been provided, targeting more than 30 countries and amounting to a total of JPY 3.4 billion. The overseas aid programme was managed by the Japan International Co-operation Agency (JICA).

7.6. In its latest submission in March 2014, the European Union reported on its SPS-related activities during 2013.<sup>47</sup> The European Union provided approximately EUR 75 million via 300 projects all over the world – while preserving its commitment to provide technical assistance to third countries despite the global economic downturn. EU assistance took the form of both development assistance and aid directed at improving opportunities for trade, animal health, plant health, and food safety. The European Union contributed not only at regional or national levels, but also at the international level to the work of the international standard-setting bodies as well as to the STDF. The assistance provided aimed to secure new markets for developing countries and to find supplies of safe food for the European Union. Developing countries should address technical assistance requests to the EU delegation in their country or to the European Commission in Brussels, Belgium.

7.7. The United States also provided an update on its technical assistance activities.<sup>48</sup> Between October 2011 and September 2012, the United States sponsored 316 SPS technical assistance activities for 72 developing countries, which were worth more than USD 45 million. These activities provided technical building blocks for strong animal health and plant systems. In 2012, the US Government had developed a partnership with the Government of Chile to provide SPS training

<sup>43</sup> Contributions made by Members since 2010 are listed in Appendix B, tables C.1 and C.2.

<sup>44</sup> G/SPS/GEN/717/Add.4.

<sup>45</sup> G/SPS/GEN/1342 and G/SPS/GEN/1342/Corr.1.

<sup>46</sup> G/SPS/GEN/1160/Add.2.

<sup>47</sup> G/SPS/GEN/1139/Add.2.

<sup>48</sup> G/SPS/GEN/181/Add.10.

to El Salvador. In 2013 and 2014, this partnership expanded to provide training to Guatemala and Honduras.

7.8. Other Members provide such information on an ad hoc basis. In July 2011 and July 2012, Chile reported on its technical assistance programme in the areas of animal husbandry, agricultural services and phytosanitary service, which provided assistance to neighbouring countries.

7.9. The WTO Secretariat, as well as observer organizations, also regularly report on their assistance activities. WTO's technical assistance activities in the SPS area increase participants' awareness about rights and obligations under the SPS Agreement and its implications at the national level. In the organization of SPS technical assistance activities, the levels of familiarity with the Agreement and advancement in its implementation are taken into consideration to meet and respond to individual country/regional needs. The programmes of national/regional activities include presentations on the transparency obligations, dispute settlement, implementation problems, specific trade concerns and technical/scientific issues such as risk analysis and equivalence, as well as the work undertaken by the Three Sisters.

7.10. A three-week advanced course on the application of the SPS Agreement provides in-depth and "hands-on" SPS training, where at the end of the course participants must elaborate an "action plan" to address identified SPS needs in their countries. Progress on the implementation of the action plans is then monitored through periodic reporting and is presented at the ten-day follow-up session the subsequent year. The Secretariat also offers an E-Learning Course on the SPS Agreement.<sup>49</sup>

7.11. Since 2010, Members have been informed at the beginning of each year of all SPS-related planned technical assistance activities and interested officials are invited to submit applications for specific events. The latest revision of G/SPS/GEN/997 contains all the detailed information on eligibility criteria, deadlines, funding, pre-requisites and application processes. In 2013, an online application form<sup>50</sup> was used for the first time to solicit applications for SPS technical assistance activities.

7.12. The Secretariat has developed a number of tools to assist Members with the understanding and implementation of the Agreement. In particular, a booklet discussing the text of the SPS Agreement was published under the WTO Agreements Series (Volume No. 4). The Secretariat has also issued a Procedural Step-by-Step Manual for SPS National Notification Authorities and SPS National Enquiry Points to facilitate the implementation of the transparency provisions of the SPS Agreement.

7.13. In October 2010 and 2012, the Committee held special workshops on the transparency provisions of the SPS Agreement.<sup>51</sup> The participation of officials from Members' SPS Enquiry Points and Notification Authorities was particularly encouraged in these training workshops. The objective of the 2010 workshop was to enhance the implementation and benefits of the transparency provisions, in particular by sharing experiences on how to operate an effective SPS National Notification Authority and Enquiry Point. Many of the presentations from this workshop highlighted the importance of internal coordination within and across the public and private sector. The 2012 workshop was a highly interactive, "hands-on" training event focusing on the use of the SPS Information Management System (SPS IMS) and on the system for the on-line submission of SPS notifications (SPS NSS). The workshop benefitted from presentations by government officials on their national experiences with submitting SPS notifications through the SPS NSS. Codex, IPPC and OIE also provided information on their online tools.

7.14. In October 2011, the Secretariat organized a workshop entitled "SPS Coordination at National and Regional Levels". This workshop was held in response to a recommendation adopted at the October 2009 workshop on the Relationship between the SPS Committee and the Three

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<sup>49</sup> More information on these training tools and material is available on the SPS webpage (<http://www.wto.org/spa>).

<sup>50</sup> This application form is accessible via a web link, which is included in the latest version of G/SPS/GEN/997.

<sup>51</sup> Summary reports of the 2010 and 2012 workshops were circulated as G/SPS/R/60 and G/SPS/R/68, respectively.



Sisters<sup>52</sup> that the SPS Committee identify ways to improve coordination at a national level among the relevant representatives of the Three Sisters and SPS representatives, and Japan's proposal in this regard.<sup>53</sup> In October 2013, the Secretariat held a workshop entitled "SPS-related Market Access Challenges and Opportunities", which brought together officials, selected from among former participants to the Advanced SPS Course, for an in-depth session focusing on specific SPS-related challenges faced by Members in their agricultural exports and how these had been addressed.<sup>54</sup> Several former participants of the Advanced SPS Course and other invited speakers presented experiences in gaining and maintaining market access. The role of government, public and private sector collaboration and technical cooperation in enhancing SPS-related market access was also highlighted in the presentations. The IPPC and OIE presented the technical aspects of enabling market access and a new IPPC manual "Market Access: A guide to phytosanitary issues for national plant protection organizations" was introduced. The Secretariat reports annually on all SPS-related technical assistance activities provided by the WTO Secretariat since September 1994.<sup>55</sup>

7.15. For the period 1994 to 2013, the WTO Secretariat had undertaken a total of 288 technical assistance activities on the SPS Agreement, including 84 regional (or sub-regional) and 127 national seminars. Table 1 provides information about the number of sub-regional and national activities per year since the last review of the operation and implementation of the SPS Agreement in 2010. Table 2 shows the overall number of activities per region since 1994.

**Table 1: Number of SPS technical assistance activities provided by the Secretariat**

Year	Type of Activity			Total
	National Seminar	(Sub)Regional Workshop	Other	
2010	11	3	3	17
2011	10	4	6	20
2012	14	4	7	25
2013	7	3	9	19
<b>Total</b>	<b>42</b>	<b>14</b>	<b>25</b>	<b>81</b>

**Table 2: SPS technical assistance activities per region (1994-2013) provided by the Secretariat**

Region	Type of Activity			Total
	National Seminar	(Sub)Regional Workshop	Other	
Africa	41	28	13	82
Arab and Middle East Countries	14	8	4	26
Asia and the Pacific	30	15	17	62
Central and Eastern Europe and Central Asia	10	7	5	22
Europe	1	3	7	11
Latin America and the Caribbean	31	23	8	62
North America	-	-	1	1
Global	-	-	22 <sup>56</sup>	22
<b>Total</b>	<b>127</b>	<b>84</b>	<b>77</b>	<b>288</b>

<sup>52</sup> G/SPS/R/57.

<sup>53</sup> G/SPS/W/251.

<sup>54</sup> A summary report of the workshop was circulated as G/SPS/R/72.

<sup>55</sup> G/SPS/GEN/521, latest revision.

<sup>56</sup> This category also includes the Advanced SPS Course.

7.16. At the March and July 2014 meetings of the Committee, the Secretariat reported on technical assistance and training activities carried out or scheduled in 2014.

### **The Standards and Trade Development Facility (STDF)**

7.17. The Standards and Trade Development Facility (STDF) was established in 2002 following the commitment made by the Heads of the FAO, the OIE, WHO, the WTO and the World Bank at the Doha Ministerial Conference to explore new technical and financial mechanisms to promote the efficient use of resources in SPS-related activities. Other organizations involved in SPS-related technical cooperation, donors contributing funds to the STDF and selected developing country experts participate actively in the Facility's work. The STDF is managed and housed by the WTO, and has reported to Members on its activities and projects in each SPS Committee meeting. The STDF supports developing countries in building capacity to implement international SPS standards, guidelines and recommendations as a means to improve their human, animal and plant health status and ability to gain and maintain access to markets. In doing so, it contributes to sustainable economic growth, poverty reduction, food security and environmental protection in developing countries. More specifically, the STDF increases awareness, mobilizes resources, strengthens collaboration and identifies and disseminates good practice to enhance the effectiveness of SPS assistance. The STDF also provides support to beneficiaries on issues related to SPS project development and finances the development and implementation of projects that promote compliance with international SPS requirements.<sup>57</sup>

7.18. As part of its coordination function, the STDF has undertaken work and organized a series of events that provided information and assistance to Members on several cross-cutting thematic SPS capacity building issues. In 2009, the STDF produced a film: "Trading Safely: protecting health, promoting development", which, to date, continues to be widely distributed and used by STDF partners, donors, beneficiaries and other organizations in awareness raising and training activities. In 2011, the STDF produced Arabic, Chinese and Russian versions of this film.<sup>58</sup>

7.19. In 2010, the STDF organized an international workshop on public-private partnerships (PPPs) to build SPS capacity, in The Hague, the Netherlands, followed by the release of a joint STDF/IDB publication on this topic in 2012. The paper analyses the emergence, operation and performance of selected SPS-related partnerships between government agencies responsible for food safety, animal and plant health and/or trade and the private sector. It raises awareness about the potential value and role of PPPs in enhancing SPS capacity and provides practical guidance to facilitate and promote PPPs for SPS capacity development. In July 2013, the STDF organized a side-event on this topic during the Fourth Global Review of Aid for Trade.<sup>59</sup>

7.20. In October 2009, on the margins of the SPS Committee meeting, the STDF organized a workshop on the use of economic analysis to inform SPS decision-making. Building on the recommendations of this event, the STDF has supported the development of a decision-support tool, based on Multi Criteria Decision Analysis (MCDA), to help developing countries prioritize investments needed to strengthen SPS capacity for market access. The tool, which has been applied in several countries<sup>60</sup>, helps to: (i) enhance the economic efficiency of SPS resource allocation decisions so that scarce resources are allocated in a manner that best meets a country's economic development, poverty alleviation, public health and/or other objectives; (ii) promote more transparent and accountable choices between multiple investment options; and (iii) facilitate dialogue and coordination among public and private sector SPS stakeholders and encourage more inclusive decision-making processes. The STDF aims to revise and finalize this tool in 2014.<sup>61</sup>

7.21. Two publications were issued on the role and functioning of regional and national SPS coordination mechanisms in Africa.<sup>62</sup> Conclusions and recommendations, including the

<sup>57</sup> More information on the STDF and its activities, including projects and project preparation grants, is available on the STDF website (<http://www.standardsfacility.org>). Members can also subscribe to the STDF mailing list to receive news on relevant activities ([http://www.standardsfacility.org/mailchimp\\_archive](http://www.standardsfacility.org/mailchimp_archive)).

<sup>58</sup> See <http://www.standardsfacility.org/video-gallery>.

<sup>59</sup> See for more information: <http://www.standardsfacility.org/public-private-partnerships>.

<sup>60</sup> Including Belize, Mozambique, Viet Nam and Zambia. In addition, the tool was used in Ethiopia, Malawi, Rwanda and Uganda with support from the Common Market for Eastern and Southern Africa (COMESA) and the United States Department for Agriculture (USDA).

<sup>61</sup> See for more information: <http://www.standardsfacility.org/p-ima>.

<sup>62</sup> See for the publications: <http://www.standardsfacility.org/stdf-publications>.



identification of concrete ways to enhance their operation and effectiveness, were presented at a WTO workshop on this topic in 2011. Both papers illustrated that strengthening coordination among relevant government institutions at the national and sub-national level, and with the private sector, reduces information gaps, promotes synergies in the implementation of SPS measures and enhances the effectiveness of available resources. Participants recommended, *inter alia*, that the Committee consider the development of guidelines on national SPS coordination and/or a manual of good practices on SPS coordination. The papers and the subsequent briefing note on enhancing SPS coordination at the country level may provide useful input and guidance if the Committee were to decide to undertake additional work in this area.

7.22. In 2012, on the margins of the Committee meeting, the STDF organized a seminar on International Trade and Invasive Alien Species (IAS), which considered the mutually supportive objectives of the SPS Agreement and the Convention on Biological Diversity (CBD). Participants agreed on the contribution of effective SPS control systems to help protect against the entry, establishment and spread of harmful species, including pests, diseases and other IAS. A publication on this topic, released in 2013 in collaboration with the IPPC and the OIE, reviews and analyses key concepts and principles relevant to IAS and international trade in the context of the SPS Agreement and the CBD, and in relation to the IPPC and OIE (i.e. the relevant standard-setting bodies under the SPS Agreement). It also considers various initiatives to enhance capacities for managing the entry and spread of IAS (including plant pests and animal diseases), reviews common challenges and good practices, and makes a number of targeted recommendations.

7.23. In 2012, the STDF initiated work on the implementation of SPS measures in the context of trade facilitation. This work seeks to identify, analyse and foster dialogue on experiences, lessons and good practices to improve the implementation of SPS controls in a way that facilitates safe trade. The objectives are to: (i) raise awareness about the synergies between the implementation of SPS measures and trade facilitation; (ii) identify key needs, opportunities and good practices to improve the implementation of SPS measures in a way that ensures the appropriate level of health protection while minimizing trade transaction costs; and (iii) make recommendations to enhance future work and technical cooperation focused on SPS capacity building and trade facilitation. As part of this work, in 2013-14, the STDF carried out research in selected countries in Southeast Asia and Africa (in collaboration with TradeMark Southern Africa) on how SPS measures are implemented in practice for specific product groups based on the provisions of the SPS Agreement. Relevant government agencies and the private sector collaborated in this research. Parallel research was carried out in Latin America by the Inter-American Development Bank (IDB). The preliminary findings of this work were presented in a half-day seminar on 26 March 2014, on the margins of the Committee meeting.<sup>63</sup>

7.24. An independent review of the Facility recently judged that "the results are impressive and a testament to the effective operation of the STDF" and praised the STDF's role in coordinating assistance projects as "significant value added".<sup>64</sup>

7.25. Recommendations:

- *The Committee should maintain technical assistance as a standing item of the agenda of its regular meetings.*
- *Members requiring technical assistance are encouraged to identify their specific needs in a clear and detailed manner that will permit these needs to be effectively addressed.*
- *Members providing technical assistance are encouraged to keep the Committee informed of specific programmes of assistance, including hard or soft infrastructure developments or any other technical assistance approaches.*
- *Members are encouraged to report on the effectiveness of the technical assistance they have received to assist them in complying with international and official standards.*
- *Members are invited to share information on their experiences regarding the use of the tools developed by the Secretariat to assist Members with the understanding and implementation of the SPS Agreement.*

<sup>63</sup> See for more information: <http://www.standardsfacility.org/facilitating-safe-trade>.

<sup>64</sup> See for further information: [http://www.wto.org/english/news\\_e/news13\\_e/sps\\_29nov13\\_e.htm](http://www.wto.org/english/news_e/news13_e/sps_29nov13_e.htm).

- *The Secretariat is requested to keep the Committee informed of its relevant technical assistance activities and of the activities of the STDF.*
- *The observer organizations are invited to keep the Committee informed of their capacity building activities relevant to the SPS Agreement.*

## 8 SPECIAL AND DIFFERENTIAL TREATMENT (ARTICLE 10)

8.1. Special and differential treatment continues to be a standing agenda item, although no Member has raised any specific matter under this agenda item subsequent to the Third Review. The Secretariat has kept the SPS Committee informed of discussions in the Committee on Trade and Development Special Session on proposals relating to Articles 10.2 and 10.3 of the SPS Agreement.

### 8.2. Recommendations:

- *The Committee should maintain special and differential treatment as a standing item of the agenda for its regular meetings.*
- *The Committee should continue to consider specific, concrete actions to address the problems faced by developing country Members and, in particular, least-developed country Members, in the implementation of the SPS Agreement and in making use of the benefits of the Agreement.*
- *Members are encouraged to provide information regarding the special and differential treatment or technical assistance they have provided in response to specific needs identified by Members in accordance with the procedure adopted by the Committee (G/SPS/33/Rev.1), to be periodically compiled in a report by the Secretariat.*
- *As foreseen in the Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members, the Committee should review its implementation as part of the periodic reviews of the SPS Agreement.<sup>65</sup>*

## 9 DISPUTE SETTLEMENT

9.1. Article 11 of the SPS Agreement indicates that the Dispute Settlement Understanding applies to SPS disputes, and provides for the consultation of experts when a dispute involves scientific or technical issues. As of mid-October 2014, more than 480 disputes had formally been raised under the WTO's dispute settlement system. Of these, 41 alleged violation of the SPS Agreement, and the SPS Agreement was relevant also in two other disputes. 23 resulted in the establishment of a dispute settlement panel. These panels were established to look at 16 different SPS issues, listed below. Subsequent to the Third Review, action has occurred on DS367 and on the last five disputes listed below, as further detailed in Appendix C<sup>66</sup>:

- a. Canada and the United States' complaint against Australia's measures affecting the importation of salmon (DS18 and DS21);
- b. Canada and the United States' complaint against the European Communities' measures concerning meat and meat products (ban on meat treated with growth-promoting hormones, DS26 and DS48);
- c. The United States' complaint against Japan's measures affecting agricultural products (requirement to test different fruit varieties with regard to treatment efficacy, DS76);
- d. Ecuador's complaint against Turkey's import procedures for fresh fruit (DS237);
- e. The United States' complaint against Japan's measures affecting the importation of apples (restrictions due to fire blight concerns, DS245);

<sup>65</sup> Paragraph 7, G/SPS/33/Rev.1.

<sup>66</sup> Please note that in four disputes, the panels (and the Appellate Body) made findings principally under the TBT Agreement. These cases concerned Canada's complaint against the European Communities' ban on asbestos and products containing asbestos, Canada and Mexico's complaint against the United States' country of origin (COOL) labelling requirements, and Indonesia's complaint against the United States' ban on clove cigarettes.

- f. The Philippines' complaint against Australia's measures affecting the importation of fresh fruit and vegetables (DS270);
- g. The European Communities' complaint against Australia's quarantine procedures (DS287);
- h. Argentina, Canada and the United States' complaint against EC measures affecting the approval and marketing of biotech products (DS291-293);
- i. The European Communities' complaint against Canada and the United States regarding their continued suspension of obligations relating to the EC-Hormones dispute (DS320);
- j. New Zealand's complaint against Australia's measures affecting the importation of apples (restrictions due to concerns related to fire blight and two other plant pests; panel and appellate body reports adopted, DS367);
- k. The United States' complaint against the European Communities' measures affecting poultry meat and poultry meat products (DS389);
- l. Canada's complaint against Korea's restrictions on bovine meat and meat products (mutually agreed solution notified, DS391);
- m. China's complaint against United States' measures affecting imports of poultry (panel report adopted, DS392);
- n. The United States' complaint against India's measures concerning the importation of certain agricultural products (due to concerns about avian influenza; panel report circulated, DS430);
- o. Argentina's complaint against United States' measures affecting the importation of animals, meat and other animal products (due to concerns about foot-and-mouth disease; panel proceedings on-going, DS447); and
- p. The European Union's complaint against Russian measures affecting the importation of live pigs pork, pork products and certain other commodities (due to concerns about African swine fever; panel established, DS475).

## 10 IMPLEMENTATION OF THE AGREEMENT – SPECIFIC TRADE CONCERNS

10.1. Part of each Committee meeting is devoted to the consideration of specific trade concerns raised by Members. At the March 2000 meeting of the SPS Committee, the Secretariat was requested to prepare a paper summarizing the specific trade concerns that had been brought to the Committee's attention since 1995 and to update this document annually to include new information provided by Members. The statistics below are derived from the fourteenth revision of G/SPS/GEN/204<sup>67</sup>, and include all issues which have been raised at SPS Committee meetings through to the end of 2013.

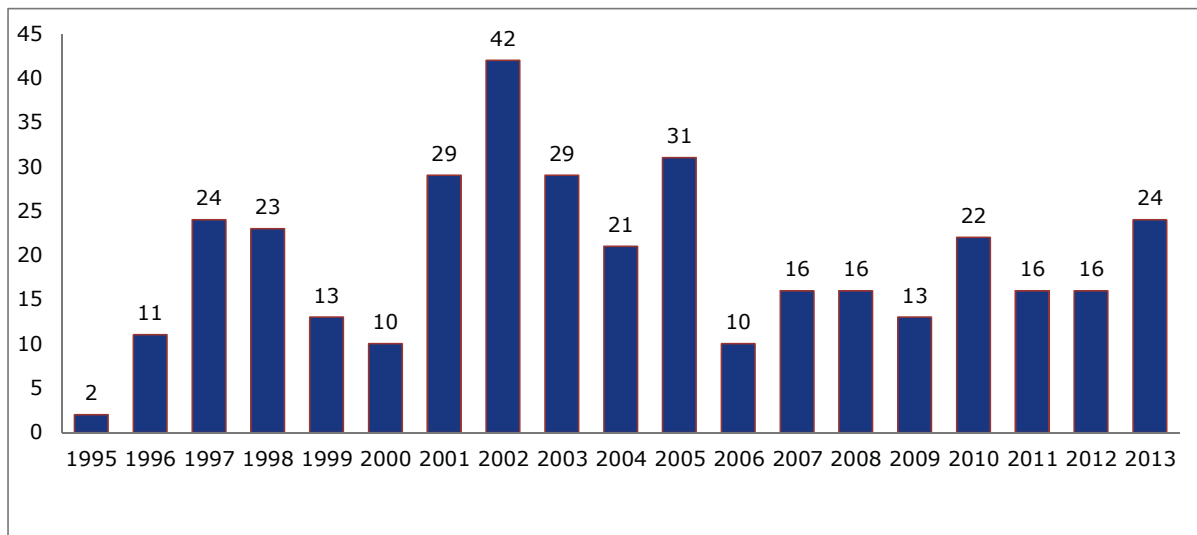
10.2. Altogether, 368 specific trade concerns were raised between 1995 and the end of 2013.<sup>68</sup> Chart 3 shows the number of new concerns raised each year; about 20 new concerns have been raised annually since 2010. Chart 4 categorizes the trade concerns raised since 2010 into food safety, animal or plant health issues. It is important to keep in mind, however, that some issues may relate to more than one of these categories. Concerns relating to zoonoses, for example, may relate to measures taken with both animal health and food safety objectives. For the purposes of these graphs, a single objective has been designated as the principal concern, however all relevant keywords have been assigned for purposes of electronic searches of the data on specific trade concerns. Since 2010, 45% of trade concerns raised relate to food safety, 17% relate to plant health, and 6% concern other issues such as certification requirements or translation. 32% of concerns raised relate to animal health and zoonoses. The animal health and zoonoses category is further divided into foot-and-mouth disease (FMD), transmissible spongiform encephalopathies (TSEs), avian influenza (AI) and other animal health concerns (OAH). Chart 5 shows that TSEs account for 24% of animal health concerns raised since 2010, and issues related to FMD also account for 24%. The remaining 52% relate to OAH concerns and AI.

<sup>67</sup> G/SPS/GEN/204/Rev.14 was circulated to Members on 4 March 2014.

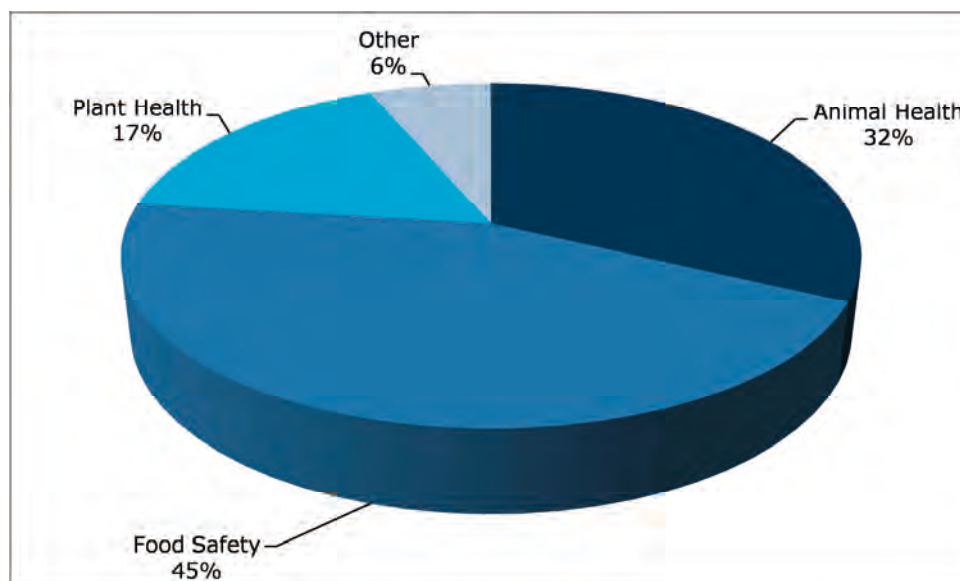
<sup>68</sup> Information relevant to this section, but which precedes the period under review, can be found in former revisions of document G/SPS/GEN/204.

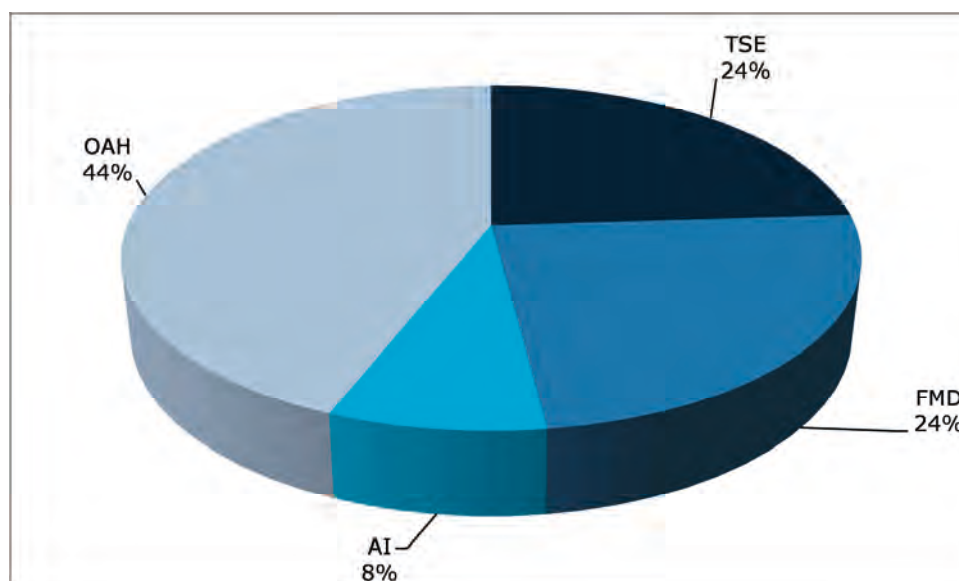
10.3. In the 2010 Review, the Committee encouraged Members to make use of the Committee's meetings to share, on an ad hoc basis, information regarding their experiences in the implementation of Article 13. Members were reminded that specific problems relating to the implementation of Article 13 may be raised as specific trade concerns.

**Chart 3 – Number of new issues raised**

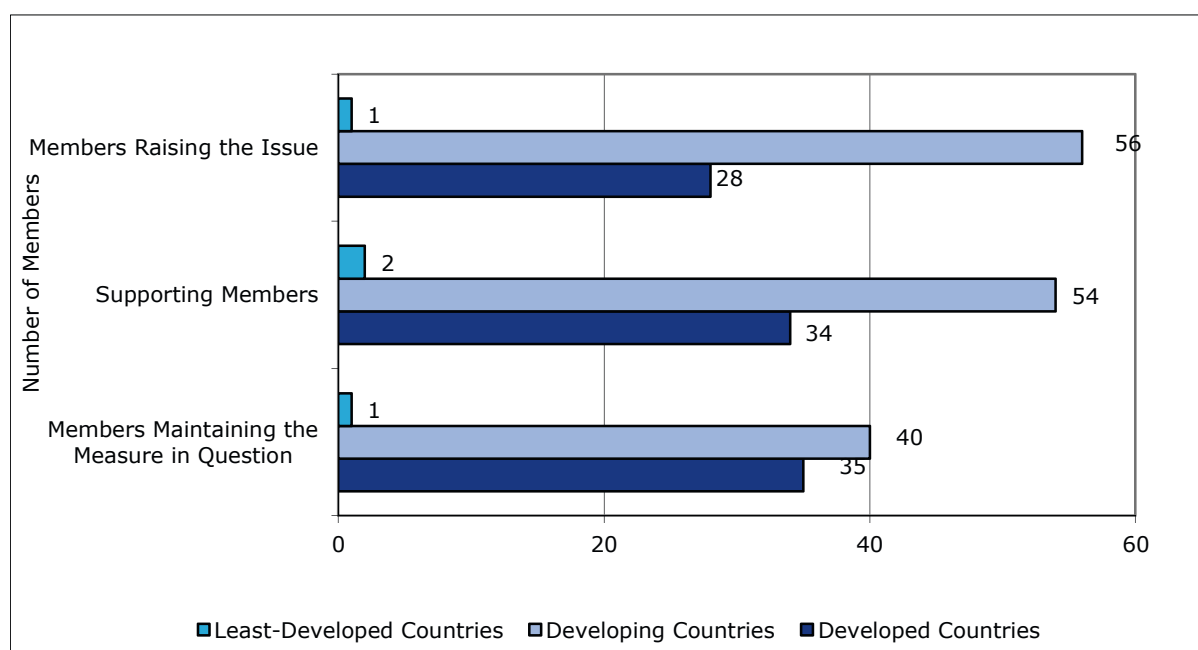


**Chart 4 – Trade concerns since 2010, by subject**

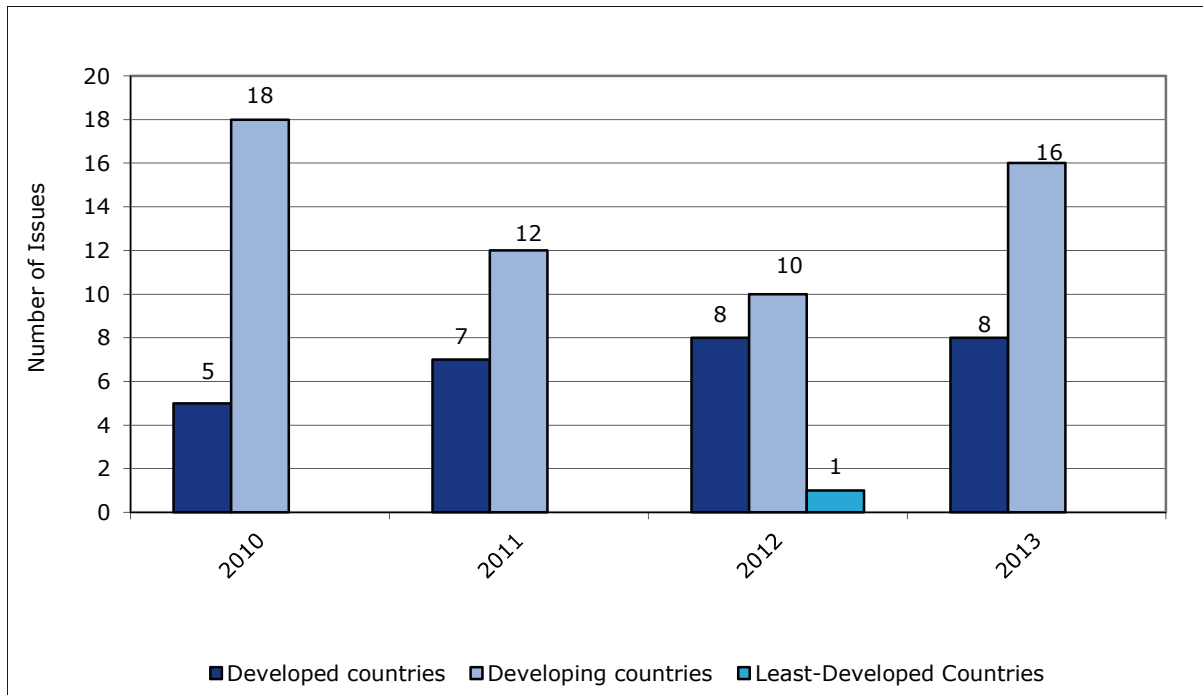


**Chart 5 –Trade concerns since 2010, related to animal health and zoonoses**

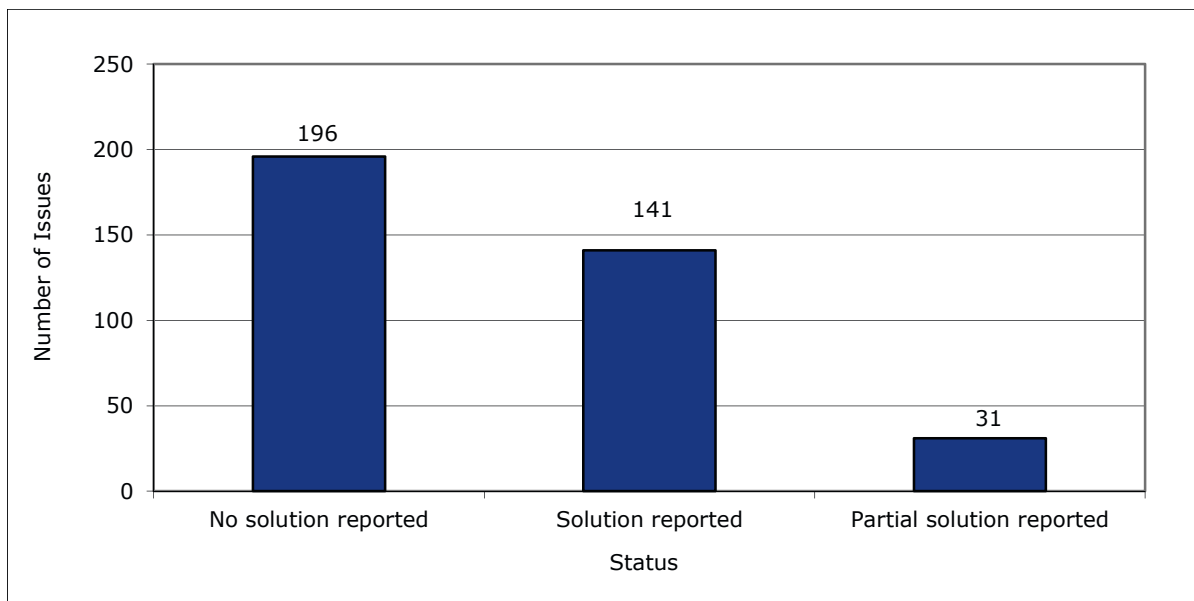
10.4. Developing country Members have been participating actively under this agenda item in the SPS Committee meetings. Chart 6 indicates that over the last four years, developing country Members have raised 56 trade concerns (on many occasions more than one Member has raised, supported or maintained an issue) compared to 28 raised by developed country Members and one raised by a least-developed country Member. A developing country Member has supported another Member raising an issue in 54 cases, compared to 34 for developed country Members and two for least-developed country Members. In 35 cases, the measure at issue was maintained by a developed country Member, and in 40 cases it was maintained by a developing country Member. Only one trade concern regarding measures maintained by least-developed country Members has been raised. Chart 7 shows the number of new issues raised since 2010 by each category of Member.<sup>69</sup>

**Chart 6 – Participation by WTO Members (2010-2013)**

<sup>69</sup> As any individual trade concern can potentially be raised by more than one Member, this explains the apparent double-counting shown in Charts 4 and 5 compared with the overall count of the 78 specific trade concerns raised since 2010.

**Chart 7 – Number of new issues raised by Members since 2010**

10.5. Members are regularly invited to report on resolved issues without delay. Chart 8 indicates that 141 trade concerns have been reported as resolved out of the 368 trade concerns raised over the 18 years. 62 issues were reported as resolved between 2010 and 2013, 40 of these in 2013 alone. 13 trade concerns were reported as partially solved during the period under review. In these instances, trade may have been allowed for selected products or by some of the importing Members maintaining the measure in question. No solutions have been reported for the remaining 196 trade concerns. It is also likely that other concerns have been resolved without the Committee being made aware of these developments.

**Chart 8 – Solved trade concerns**

#### 10.6. *Recommendations:*

- *The Committee should continue to consider specific trade concerns raised by Members as a standing item of the agenda of its regular meetings.*
- *Members are encouraged to make use of this opportunity to identify specific trade problems and to seek to find expeditious and mutually satisfactory resolutions of these problems.*
- *Members are encouraged to inform the Committee of all specific trade concerns resolved.*
- *The Secretariat is requested to continue to provide regularly updated information on the specific trade concerns considered by the Committee.*

### **11 IMPLEMENTATION OF THE AGREEMENT – USE OF AD HOC CONSULTATIONS**

11.1. Article 12.2 states that the Committee "shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues". In each of the previous reviews, the Committee has recognized the usefulness of Article 12.2, and in particular of the good offices of the Chairperson, as a means of facilitating the resolution of trade problems.<sup>70</sup>

11.2. Following the Committee's decision in the Third Review to expeditiously conclude this issue, several Members submitted proposals for a procedure to facilitate the use of ad hoc consultations and negotiations among Members.<sup>71</sup> In May 2011, the Secretariat circulated a document that sought to combine the proposals made, to facilitate the identification and consideration of those areas where there were substantive differences among the proposals.<sup>72</sup> The document was subsequently revised several times to reflect comments received from Members and discussions at informal meetings of the Committee.

11.3. At its meeting in October 2012, the Committee established an electronic Working Group (e WG) to make progress between Committee meetings. Individual delegates offered to act as stewards or co-stewards, working towards compromises in five areas where important differences remained. The resulting fifth revision was discussed in March 2013 by the e-WG and in an informal meeting of the Committee. After this meeting, the stewards considered all comments received and revised their proposed compromise texts. After more inputs from Members, a sixth revision of the proposal was circulated to Members.

11.4. At the June 2013 meeting, the Committee discussed the sixth revision and few substantive concerns were raised by Members. These were taken into account in the preparation of a seventh revision, which was presented for adoption at the October 2013 meeting of the Committee. There was no consensus to adopt the proposal. Members unable to join the consensus were requested to submit constructive suggestions for compromise language by 17 December 2013. As no compromise language was suggested by the deadline, the Committee considered again the adoption of the seventh revision at its March 2014 meeting.

11.5. At the SPS Committee meeting in March 2014, India sought clarification on several specific issues relating to the procedure outlined in G/SPS/W/259/Rev.7. In response, the Chairperson invited India to submit in writing its specific queries in order for these to be circulated to all Members. This was done in RD/SPS/4, dated 6 May 2014. The stewards and co-stewards of the e-WG reviewed the queries submitted by India, and provided the requested clarifications in RD/SPS/5, dated 13 June 2014.

11.6. At its July 2014 meeting, the Committee adopted the Recommended Procedure to Encourage and Facilitate the Resolution of Specific Sanitary and Phytosanitary Issues among Members in Accordance with Article 12.2, with the changes suggested by India, on an ad referendum basis. No Member raised an objection by the deadline, and the final decision was circulated as G/SPS/61.

<sup>70</sup> G/SPS/12, paragraph 24; G/SPS/36, paragraphs 87-88; G/SPS/53, paragraphs 116-126.

<sup>71</sup> G/SPS/W/243/Rev.4 and JOB/SPS/1.

<sup>72</sup> G/SPS/W/259.



#### 11.7. *Recommendations:*

- *As foreseen in the Recommended Procedure to Encourage and Facilitate the Resolution of Specific SPS issues among Members in Accordance with Article 12.2, the Committee should review its implementation as part of the periodic reviews of the SPS Agreement.*<sup>73</sup>
- *Members are encouraged to provide their experiences in the use of ad hoc consultations, including through the good offices of the Chairperson of the SPS Committee, to facilitate the resolution of specific trade concerns.*

### 12 COOPERATION WITH THE CODEX, IPPC AND OIE

12.1. Following a proposal submitted by Japan on cooperation between the SPS Committee and the Three Sisters, the WTO Secretariat organized, on 17 October 2011, a Geneva-based workshop on coordination of SPS matters at national and regional levels. The objective of the workshop was to bring together officials responsible for participation in and implementation of the SPS Agreement, Codex, IPPC and/or OIE for an in-depth discussion, at a technical level, on best practices in coordination at national and regional levels. In the workshop, the Secretariat presented a background document<sup>74</sup> that described and compared the procedures used by the Three Sisters to develop standards. Codex, IPPC and OIE outlined the strengths and challenges of their respective standard-setting procedures, and changes under consideration. The WTO Secretariat, in its report on the coordination workshop, highlighted two specific recommendations resulting from it, namely a possibility to develop guidelines for good national coordination and/or a manual of good practices.<sup>75</sup> Also, at its October 2011 meeting, the SPS Committee formally agreed to a proposal from Canada and Japan to encourage the Three Sisters to undertake joint work on cross-cutting issues, such as, inter alia, certification, inspection, approval procedures and/or risk analysis.<sup>76</sup> A preliminary analysis of the treatment of SPS matters in Regional Trade Agreements was also presented by the Secretariat, and the Standards and Trade Development Facility (STDF) presented the results of two studies concerning national and regional coordination in Africa.

#### 12.2. *Recommendations:*

- *Members are encouraged to provide information on their experiences in coordinating their involvement in the work of Codex, IPPC and OIE at the national level.*
- *The relevant international organizations are invited to keep the Committee informed of any work related to the SPS Agreement.*

### 13 GOOD REGULATORY PRACTICE

13.1. In March 2013, the Secretariat recalled that in the past two reviews of the SPS Agreement, one of the issues that had been raised by Members related to good regulatory practices. There had been several suggestions for the Committee to look at guidelines on Good Regulatory Practice (GRP), but the Committee had not agreed to do so.

#### 13.2. *Recommendations:*

- *Members are invited to provide information regarding their experiences in the use of the guidelines developed by the Committee with respect to transparency, equivalence, recognition of pest- or disease-free areas, and the avoidance of arbitrary or unjustifiable distinctions in levels of protection.*

### 14 SPS-RELATED PRIVATE STANDARDS

14.1. The effects of SPS-related private standards ("private standards") on trade and the appropriate role of the SPS Committee has been discussed by the Committee since the issue was first raised in 2005 by Saint Vincent and the Grenadines with regard to EurepGAP (now called GLOBALGAP) requirements on pesticides used on bananas destined for sale in European markets.<sup>77</sup>

<sup>73</sup> Paragraph 5.1. in G/SPS/61.

<sup>74</sup> G/SPS/GEN/1115.

<sup>75</sup> G/SPS/R/65.

<sup>76</sup> G/SPS/58.

<sup>77</sup> G/SPS/R/37/Rev.1, paras.16-20.



After considerable discussion in the SPS Committee, an ad hoc working group was established to identify "Possible Actions for the SPS Committee Regarding SPS-Related Private Standards".<sup>78</sup> At its March 2011 meeting, the Committee endorsed five of the six actions put forward by the ad hoc working group.<sup>79</sup> Despite further revision and discussions, consensus was not reached on Action 6.<sup>80</sup> In addition, six other actions were also identified by the working group on which consensus could not be reached. These six proposed actions are listed in Annex I of the ad hoc working group report, along with a brief explanation of the main differences of opinion.

14.2. Since 2011, the Committee's discussions on private standards have focused on the five actions agreed by the Committee and, in particular, on Action 1 relating to the development of a working definition of SPS-related private standards. The Committee discussed a working definition on the basis of draft definitions prepared by the Secretariat based on proposals from Members.<sup>81</sup> However, as no consensus emerged, China and New Zealand, the only Members having submitted new proposals for a definition by a 19 April 2013 deadline, were requested to work on developing a joint proposal.

14.3. A first joint proposal was discussed in June 2013, and taking into account the comments made during the meeting and additional comments submitted by Members, China and New Zealand tabled a revised joint working definition of an SPS-related private standard for discussion at the October 2013 informal meeting of the Committee.<sup>82</sup> As there was no consensus on the joint definition tabled by China and New Zealand, the Committee agreed to move the process forward by forming an electronic working group (e-WG) focussed on developing a working definition of an SPS-related private standard, with China and New Zealand as "co-stewards".

14.4. The co-stewards circulated a report on the work of the e-WG<sup>83</sup>, for discussion at the March 2014 meeting. The report noted that no consensus had been reached by the e-WG on a working definition, thus the co-stewards had put forward, as part of their report, a compromise working definition on their own responsibility.

14.5. Following a suggestion by Canada, the Secretariat circulated a note on existing definitions of "private standards" in other international organizations, revised to take into account additional definitions reported by Argentina and Canada at the July 2014 meeting.<sup>84</sup> The Committee agreed that the e-WG would pursue its work on a definition of SPS-related private standards, based on the working definition tabled by the e-WG co-stewards in document G/SPS/W/276. Members were invited to submit any comments on this definition by 5 September 2014. The Committee requested the co-stewards of the e-WG to circulate a report on a compromise working definition for consideration at the October 2014 meeting of the Committee.

14.6. At the October 2014 Committee, the co-stewards introduced their second report on the work of the e-WG,<sup>85</sup> and presented the proposed working definition of an SPS-related private standard contained therein. The co-stewards also referred to a room document circulated at a special meeting of the e-WG which contained the proposed definition with, one version incorporating a disclaimer as part of the text of the Decision, and the other as a footnote. E-WG members were expected to revert to the co-stewards, within a timeline to be agreed, so that discussions on a working definition could successfully be concluded by the March 2015 meeting of the Committee.

14.7. The Committee agreed to give the co-stewards and the e-WG more time to pursue their efforts in trying to bridge differences and come up with a compromise working definition that could be presented for consideration and adoption by the Committee as soon as possible.

14.8. Since 2011, the Committee has also discussed the implementation of the other four agreed actions. On Action 2, it was noted that information exchange mechanisms between the

<sup>78</sup> The March 2011 report of this working group is contained in document G/SPS/W/256.

<sup>79</sup> G/SPS/55.

<sup>80</sup> G/SPS/W/261.

<sup>81</sup> G/SPS/W/265, G/SPS/W/265/Rev.1 and G/SPS/W/265/Rev.2.

<sup>82</sup> G/SPS/W/272.

<sup>83</sup> G/SPS/W/276.

<sup>84</sup> G/SPS/GEN/1334 and G/SPS/GEN/1334/Rev.1.

<sup>85</sup> G/SPS/GEN/281.

SPS Committee and the Three Sisters were already in place and functioning. Some Members encouraged Codex, IPPC and OIE to contact the private schemes identified by Members in document G/SPS/GEN/932/Rev.1 to promote the use of international standards, and report back to the Committee on those contacts. Codex provided updates on its work on the issue of private standards, including its discussions on private standards in the framework of Codex regional bodies. The OIE highlighted steps it had taken to promote compatibility and avoid conflict between private and official standards, and drew attention to the OIE General Assembly's Resolution on Private Standards.<sup>86</sup> The IPPC noted that it had requested that ISO clarify that there were no obligations to implement ISO standards in order to comply with IPPC standards.

14.9. On Action 3, the Secretariat has kept the Committee informed of relevant discussions in other WTO fora, including: (i) the publication of the 2012 World Trade Report that focused on TBT and SPS measures; (ii) a session on Non-Tariff Measures at the 2012 WTO Public Forum; and (iii) the thematic discussion on standards organized during the March 2013 and March 2014 TBT Committee meetings.<sup>87</sup>

14.10. On Action 4, it was noted that useful ideas could be shared amongst Members regarding their efforts to reach out to entities involved in private standard-setting in their territories. China suggested that when communicating with private standard-setting entities, Members make reference to the Code of Good Practice of the TBT Agreement and to the TBT Committee's Decision on the "Six Principles" for the preparation of international standards.<sup>88</sup> Belize also noted that Action 4 could be enhanced by sensitizing private standard-setting entities to the list of concerns in paragraph 24 under Action 6 of document G/SPS/W/256.<sup>89</sup> Belize drew Members' attention to its recommendations regarding the implementation of Action 4 in document G/SPS/GEN/1290, and encouraged Members to give those recommendations due consideration.

14.11. Several Members noted the importance of sensitizing private standard-setting entities and actors and reported on efforts undertaken at the national level. Members who were already communicating with private standard-setting entities in their territories were encouraged to share their experiences in that regard. The Philippines reported on regional and national briefing sessions jointly organized by the Department of Agriculture and the United Nations Forum on Sustainability Standards (UNFSS). China referred to its submission G/SPS/GEN/1261 on Action 4, and noted that some Members were already communicating with private entities in their territories involved in the development, application and certification of private standards.

14.12. On action 5, the Secretariat referred to various relevant examples relating to the collaboration between the SPS Committee and the Three Sisters to develop and/or disseminate informative materials on the importance of international standards. In particular, the Secretariat highlighted: (i) the usefulness of the STDF film on Trading Safely; (ii) the joint regional SPS workshops with the Three Sisters; as well as (iii) the development of a new e-learning module with the Inter-American Development Bank. The Secretariat also noted that Codex had developed brochures, as well as a promotional video in the context of its 50th anniversary, on the role Codex standards could play in ensuring the trade of safe food. Members could use those new Codex materials as well as materials that already existed from the other sisters, and disseminate them to their private sector. While both financial and human resources were limited, dissemination efforts would continue.

14.13. IPPC drew attention to a publication on the application of international phytosanitary standards developed by IPPC with the FAO Forestry Division and to similar guidelines for the seeds sector. The IPPC noted that all IPPC communications, including its standards, were available in its six official languages. The IPPC continued to raise the awareness of its members on the issue of private standards, and would address any future appearance of private standards in the plant health area. The OIE noted that all its publications were available in its three official languages and that any further translation, while encouraged, was at the discretion of the end-user. The OIE also noted that it constantly emphasized the importance of adopting and adhering to international standards. Some Members noted the importance of increased awareness about the operations of

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<sup>86</sup> G/SPS/GEN/1024.

<sup>87</sup> JOB/TBT/41/Rev.1, JOB/TBT/42 and JOB/TBT/42/Corr.1, and G/TBT/GEN/144 and G/TBT/GEN/144/Add.1.

<sup>88</sup> G/SPS/GEN/1261.

<sup>89</sup> G/SPS/GEN/1290.

private standard-setting bodies, and referred to the OIE resolution guiding OIE's relations with private standard-setting bodies. The collaboration of both Codex and OIE with private standard-setting bodies was encouraged in order to foster the development and implementation of science-based food safety and other standards, whether official or private. It was further suggested, in particular by Argentina, that Codex, IPPC and OIE liaise directly with the various private schemes identified by Members in document G/SPS/GEN/932/Rev.1. Such contact could then inform the Three Sisters' efforts in developing and/or disseminating materials underlying the importance of international standards. The Secretariat noted that this suggestion had been reflected in the relevant Chair summaries, which in turn were reflected in the Secretariat's regular reports on relevant Committee activities, including the consideration of private standards, to the IPPC's CPM, the OIE World Assembly of Delegates and the Codex Alimentarius Commission.

14.14. The Committee also discussed how to address the seven outstanding proposed actions on which consensus had not been reached. Some Members suggested moving forward on outstanding Actions 6 to 12 through a voluntary working group. However, other Members indicated that they were not prepared to work on those actions where there had been no consensus.

14.15. Regarding Action 6, some Members were of the view that private standards are outside the scope of the SPS Agreement and thus related information exchanges should take place on the margins of the Committee meetings. Others, however, believed that private standards did fall within the jurisdiction of the SPS Committee and that information exchange on these issues should be on the agenda of the Committee.

14.16. Belize drew Members' attention to document G/SPS/GEN/1291, which flagged the need to consider Actions 6 to 12 in parallel with those in document G/SPS/55, and which also provided specific recommendations for the implementation of Actions 10 and 11. Belize also noted that IICA's report on private food standards in the Southern Cone (G/SPS/GEN/1100) contained several recommended actions for the Committee and/or governments to address concerns associated with SPS-related private standards. With regards to Action 10, Belize encouraged Members to review the TBT Code of Good Practice and determine its applicability for the implementation of the action. On Action 11, Belize encouraged Members liaising with entities involved in private standards to share their experience with the Committee as the approaches used could be considered in the implementation of Action 11.<sup>90</sup> Belize supported by several Members, expressed concerns regarding the proliferation of private standards and how these affected market access and stressed the relevance of addressing the issue of private standards in the SPS Committee.<sup>91</sup>

14.17. On other matters related to private standards, Belize registered its concern regarding the evolution in food safety certification requirements, as governments were responsible for setting SPS measures, with guidance from international standards.<sup>92</sup> Belize noted that a country's appropriate level of protection should not be set by the private sector, and stressed that the SPS Committee had a vital role to play in addressing the issues related to private standards and their impact on international trade.

14.18. ISO encouraged increased engagement between ISO, Codex, OIE and non-governmental organizations working on private standards such as the Global Food Safety Initiative (GFSI). These organizations were encouraged to move away from private standard-setting to focus on implementation and harmonization. ISO also flagged the publication of a brochure entitled *International Standards and Private Standards*. IICA reported on the study undertaken on the impact of private food standards in the Southern Cone.<sup>93</sup> Work in other fora relating to private standards was also presented, in particular the creation of the UNFSS by the FAO, ITC, UNCTAD, UNEP and UNIDO. The UNFSS is intended to provide an unbiased and credible policy dialogue with analytical, empirical and capacity-building activities, based on demand by developing countries and involving all concerned non-governmental stakeholders.<sup>94</sup>

14.19. At the March 2014 meeting, the ITC presented the most recent iteration of its online "Standards Map", an interactive web-tool which provides information on over 130 private and

<sup>90</sup> G/SPS/GEN/1291.

<sup>91</sup> G/SPS/GEN/1240.

<sup>92</sup> G/SPS/GEN/1374.

<sup>93</sup> G/SPS/GEN/1088.

<sup>94</sup> <http://www.unfss.org>.

public voluntary standards, across 700 different criteria of analysis. The ITC confirmed that the terminology of "voluntary standards" and the schemes identified in the Standards Map encompassed both government and private voluntary standards, but these could be separated through a dedicated search. In relation to the concern expressed about the multiplication of testing and costs for producers, as well as the proliferation of private schemes, ITC confirmed that it had been consulted by ISEAL and GIZ<sup>95</sup> regarding the development of a Sustainability Standards Comparison Tool. The tool was being developed and should be piloted by the end of 2014.

14.20. Despite open discussions among Members, the Committee has been unable to agree to the inclusion of a bullet point in paragraph 14.21 recommending that the Committee "will consider specific problems identified by a Member that arises from an SPS-related private standard that affects its exports". Adoption of this report is without prejudice to the views of Members on the scope of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures regarding SPS-related private standards and their effects on international trade.

14.21. *Recommendations:*

- *Members and Observer Governments are encouraged to provide information on any relevant studies or analysis which they have undertaken, or of which they are aware.*
- *The Committee should continue its implementation of agreed actions one to five (G/SPS/55). The Committee may also continue its considerations of other outstanding issues (G/SPS/W/256) and of relevant activities.*

## **15 RISK ANALYSIS: RISK ASSESSMENT (ART. 5), RISK MANAGEMENT AND COMMUNICATION**

15.1. In the context of the Fourth Review, the United States proposed the organization of a workshop on risk analysis.<sup>96</sup> The United States noted that since the last workshop on this topic in 2000, a significant amount of work must have been carried out by Members and the Three Sisters.

15.2. Many Members supported the proposal and proposed that a session on risk communication be included in the programme. It was also suggested that the session related to dispute settlement be presented by WTO staff. Furthermore, given the amount of material to be covered, the possibility of splitting the workshop into two events was discussed, but funding was available for a two-day workshop only.

15.3. At the March 2014 meeting, the Committee agreed that risk analysis be the topic of the thematic October 2014 workshop. The Committee also considered South Africa's proposal on risk assessment and the appropriate level of protection (ALOP), submitted in the context of the Fourth Review.<sup>97</sup> One Member proposed that the issue of special and differential treatment should also be taken into account when establishing the ALOP. The Committee agreed to address South Africa's proposal, which consisted of two questions related to the implementation of Article 5.4 of the SPS Agreement, in the context of the workshop on risk analysis.

15.4. Members were invited to submit suggestions regarding the programme, based on that contained in the US proposal, and a revised programme was circulated for discussion at the July 2014 meeting<sup>98</sup>, which built on the US proposal, and reflected South Africa's proposal related to the implementation of Article 5.4 of the SPS Agreement as well as other comments received from Members. The Secretariat invited Members to submit any further comments on the programme and to help identify appropriate speakers by 25 July 2014. The Secretariat noted that in addition to government officials, participation was open to non-governmental entities provided their number remained limited. Over 500 applications for WTO funding had been received by the deadline. In selecting 50 participants for WTO funding, priority was given to LDC government officials and those holding responsibilities in the risk analysis area.

<sup>95</sup> International Social and Environmental Accreditation and Labelling Alliance (ISEAL); and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).

<sup>96</sup> G/SPS/W/275.

<sup>97</sup> G/SPS/GEN/1307.

<sup>98</sup> G/SPS/GEN/1336.

15.5. The workshop on risk analysis was held on 13-14 October 2014. It provided a platform for discussion and experience sharing and best practises concerning SPS-related risk analysis. Delayed streaming of the workshop was made possible through a partnership with IICA. The presentations made at the workshop, as well as audio and video clips are available on the WTO website.

## **16 CATALOGUE OF INSTRUMENTS FOR THE MANAGEMENT OF SPS ISSUES**

16.1. In the context of the Fourth Review, Canada proposed that the Committee develop a "Catalogue of Instruments Available to the WTO Members to manage SPS issues"<sup>99</sup>, noting that the timely use of these tools could help Members avoid, manage or escalate issues. The proposed catalogue would include all mechanisms relevant to the SPS Agreement framework; for instance, the right to provide comments on notifications and to discuss them, the targeted or strategic use of the STC agenda item, and the use of the IPPC or OIE dispute settlement procedures.

16.2. Many Members welcomed the proposal and highlighted the usefulness of developing a compendium of all the actions available. It was proposed that the Secretariat collaborate with Canada on preparing a draft of the catalogue, for subsequent comments by other Members. The draft catalogue, jointly submitted by Canada and Kenya, was circulated as G/SPS/W/279, on 18 June 2014. At the July 2014 meeting the Committee agreed to have a revised version circulated in advance of the October 2014 meeting.

16.3. At the October 2014 meeting, Canada presented its revised draft catalogue submitted jointly with Kenya (G/SPS/W/279/Rev.1), which incorporated comments received by Members since the July meeting. The instruments were now grouped by thematic areas in a progressive manner, starting from bilateral contacts up to the use of the WTO dispute settlement mechanism. Kenya highlighted that the Catalogue regrouped all instruments available with their corresponding document references. It also referred to the work of the Three Sisters, which were invited to submit comments.

16.4. Several Members highlighted the usefulness of such a compendium of instruments available to address SPS-related trade issues, and expressed their interest in reviewing it before its adoption. Comments on the catalogue of instruments were to be submitted by 28 November 2014, and Canada and Kenya were invited to prepare a revision of the document, if needed, by 20 February 2015, for endorsement at the March 2015 meeting.

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<sup>99</sup> G/SPS/W/271.

**APPENDIX A - SUMMARY OF MAJOR SPS COMMITTEE ACTIVITIES, 2010-2014**

<b>Subject</b>	<b>Year</b>	<b>Type of Activity</b>	<b>Related Documents</b>
<b>Transparency</b>	2010	Implementation of the Transparency Obligations as of 26/02/2010	G/SPS/GEN/27/Rev.20
	2010	Overview Regarding the Level of Implementation of the Transparency Provisions of the SPS Agreement	G/SPS/GEN/804/Rev.3
	2010	Draft Programme for Transparency Workshop	G/SPS/GEN/1021/Rev.1
	2010	Workshop on transparency held on 18 and 22/10/2010	G/SPS/R/60
	2011	Implementation of the transparency obligations as of 10/03/2011	G/SPS/GEN/27/Rev.21
	2011	Update on the mentoring system of assistance relating to the transparency provisions of the SPS Agreement	G/SPS/GEN/1097
	2011	Overview regarding the level of implementation of the transparency provisions of the SPS Agreement	G/SPS/GEN/804/Rev.4
	2012	Implementation of the transparency obligations as of 17/02/2012	G/SPS/GEN/27/Rev.22
	2012	Overview regarding the level of implementation of the transparency provisions of the SPS Agreement	G/SPS/GEN/804/Rev.5 and G/SPS/GEN/804/Rev.5/Corr.1
	2012	Programme for Transparency Workshop	G/SPS/GEN/1156/Rev.1
	2012	Workshop on Transparency	G/SPS/R/68
	2013	Procedure to monitor the process of international harmonization - Draft fifteenth annual report	G/SPS/W/269
<b>Monitoring International Standards</b>	2013	Overview regarding the level of implementation of the transparency provisions of the SPS Agreement	G/SPS/GEN/804/Rev.6
	2010	Procedure to monitor the process of International Harmonization - Twelfth Annual Report	G/SPS/54
	2010	Summary Report of the Workshop on the Relationship between the SPS Committee and the International Standard-Setting Organizations	G/SPS/R/57
	2011	Procedure to Monitor the Process of International Harmonization - Thirteenth Annual Report	G/SPS/56
	2011	Monitoring the Use of International Standards	G/SPS/GEN/1086
	2011	Joint Work by Codex, IPPC and OIE on Cross-cutting Issues - Decision of the Committee	G/SPS/58
	2011	Three Sisters Standard-setting Procedures	G/SPS/GEN/1115
	2012	Summary Report of the Workshop on SPS Coordination at the National and Regional Levels - 17 October 2011	G/SPS/R/65
	2012	Procedure to Monitor the Process of International Harmonization - Fourteenth Annual Report	G/SPS/59
	2013	Procedure to Monitor the Process of International Harmonization - Fifteenth Annual Report	G/SPS/60
	2014	Procedure to Monitor the Process of International Harmonization - Draft Sixteenth Annual Report	G/SPS/GEN/1332



Subject	Year	Type of Activity	Related Documents
Technical Assistance	2010	SPS Technical Assistance and Training Activities	G/SPS/GEN/521/Rev.5 and G/SPS/GEN/521/Rev.5/Corr.1
	2010	WTO SPS Technical Assistance Activities in 2010 – General Information, Selection Processes and Application Form	G/SPS/GEN/997
	2010	Update on the Operation of the Standards and Trade Development Facility (STDF)	G/SPS/GEN/1002
	2010	Agency for International Trade Information and Cooperation (AITIC)	G/SPS/GEN/1009
	2010	Update on the Operation of the STDF	G/SPS/GEN/1029
	2010	Update on the Operation of the STDF	G/SPS/GEN/1046
	2011	SPS Technical Assistance and Training Activities	G/SPS/GEN/521/Rev.6
	2011	WTO SPS Technical Assistance Activities in 2011 – General Information, Selection Processes and Application Form	G/SPS/GEN/997/Rev.1
	2011	Update on the Operation of the STDF	G/SPS/GEN/1075
	2011	Update on the Operation of the STDF	G/SPS/GEN/1089
	2011	Update on the Operation of the STDF	G/SPS/GEN/1114
	2012	SPS Technical Assistance and Training Activities	G/SPS/GEN/521/Rev.7
	2012	Update on the Operation of the STDF	G/SPS/GEN/1144
	2012	Update on the Operation of the STDF	G/SPS/GEN/1158
	2012	Update on the Operation of the STDF	G/SPS/GEN/1193
	2012	WTO SPS Technical Assistance Activities in 2012 – General Information, Selection Processes and Application Form	G/SPS/GEN/997/Rev.2
	2013	Update on the Operation of the STDF	G/SPS/GEN/1221
	2013	Update on the Operation of the STDF	G/SPS/GEN/1251
	2013	Update on the Operation of the STDF	G/SPS/GEN/1279
	2013	SPS Technical Assistance and Training Activities	G/SPS/GEN/521/Rev.8
	2013	WTO SPS Technical Assistance Activities in 2013 – General Information, Selection Processes and Application Form	G/SPS/GEN/997/Rev.3
	2014	Mid-term review of the standards and trade development facility (STDF)	G/SPS/GEN/1304
	2014	WTO SPS Technical Assistance Activities in 2014 – General Information, Selection Processes and Application Form	G/SPS/GEN/997/Rev.4 and G/SPS/GEN/997/Rev.4/Add.1
	2014	Update on the Operation of the STDF	G/SPS/GEN/1311
	2014	SPS Technical Assistance and Training Activities	G/SPS/GEN/521/Rev.9
	2014	Update on the Operation of the STDF	G/SPS/GEN/1337
Implementation of the Agreement – Specific Trade Concerns /Ad Hoc Consultations	2010	Proposed Recommended Procedure for Ad Hoc Consultations or Negotiations among Members under the SPS Agreement (Article 12.2)	G/SPS/W/243/Rev.3
	2010	Specific Trade Concerns	G/SPS/GEN/204/Rev.10 and Addenda

Subject	Year	Type of Activity	Related Documents
	2011	Proposed Recommended Procedure for Ad Hoc Consultations or Negotiations among Members under the SPS Agreement (Article 12.2)	G/SPS/W/243/Rev.4
	2011	Proposed Recommended Procedure to Encourage and Facilitate Ad Hoc Consultations or Negotiations among Members under the SPS Agreement (Article 12.2)	G/SPS/W/259/Rev.1
	2011	Specific Trade Concerns	G/SPS/GEN/204/Rev.11 and Addenda and Corrigenda
	2012	Proposed Recommended Procedure to Encourage and Facilitate Ad Hoc Consultations or Negotiations among Members under the SPS Agreement (Article 12.2)	G/SPS/W/259/Rev.4 and G/SPS/W/259/Rev.4/Corr.1
	2012	Specific Trade Concerns	G/SPS/GEN/204/Rev.12
	2013	Proposed Recommended Procedure to Encourage and Facilitate Ad Hoc Consultations or Negotiations among Members under the SPS Agreement (Article 12.2)	G/SPS/W/259/Rev.7
	2013	Specific Trade Concerns	G/SPS/GEN/204/Rev.13 and G/SPS/GEN/204/Rev.13/Corr.1
	2014	Specific Trade Concerns	G/SPS/GEN/204/Rev.14
	2014	Procedure to Encourage and Facilitate the Resolution of Specific Sanitary or Phytosanitary Issues among Members in Accordance with article 12.2 – Decision of the Committee	G/SPS/61
<b>Private Standards</b>	2010	Possible Actions for the SPS Committee Regarding Private SPS Standards	G/SPS/W/247/Rev.3
	2010	The Global Food Safety Initiative (GFSI)	G/SPS/GEN/1004
	2011	Report of the Ad Hoc Working Group on SPS-related Private Standards to the SPS Committee	G/SPS/W/256
	2011	Actions Regarding SPS-related Private Standards – Decision of the Committee	G/SPS/55
	2011	Proposed Revisions to Action 6 of the Report of the Ad Hoc Working Group on SPS-related Private Standards (G/SPS/W/256)	G/SPS/W/261
	2012	Proposed Working Definition on SPS-related Private Standards	G/SPS/W/265/Rev.2
	2014	Existing Definitions of Private Standards in Other International Organizations	G/SPS/GEN/1334 and G/SPS/GEN/1334/Rev.1
<b>Regionalization</b>	2012	Annual Report on the Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures	G/SPS/GEN/1134
	2013	Annual Report on the Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures	G/SPS/GEN/1245
	2014	Annual Report on the Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures	G/SPS/GEN/1333



Subject	Year	Type of Activity	Related Documents
Other	2010	Review of the Operation and Implementation of the SPS Agreement – Report adopted by the Committee on 18 March 2010	G/SPS/53
	2010	Report (2010) on the Activities of the Committee on Sanitary and Phytosanitary Measures	G/L/943
	2010	Membership in WTO and International Standard-Setting Bodies	G/SPS/GEN/49/Rev.10
	2011	Report to the Council for Trade in Goods on China's Transitional Review	G/SPS/57
	2011	Programme for a Workshop on SPS Coordination at National and Regional Levels	G/SPS/GEN/1110
	2011	Outstanding Requests from International Intergovernmental Organizations – Criteria for Observer Status	G/SPS/GEN/1112
	2011	Report (2011) on the Activities of the Committee on Sanitary and Phytosanitary Measures	G/L/969
	2011	Membership in WTO and International Standard-Setting Bodies	G/SPS/GEN/49/Rev.11
	2012	Observers in the SPS Committee - Their Role and Outstanding Requests	G/SPS/GEN/1157
	2012	Report (2012) on the Activities of the Committee on Sanitary and Phytosanitary Measures	G/L/1013
	2012	Revised Secretariat Procedures for Production and Distribution of Certain SPS Committee Documents	G/SPS/INF/18/Rev.1
	2013	Programme - Workshop on SPS-related Market Access Challenges and Opportunities	G/SPS/GEN/1270
	2013	Proposed Process for the Fourth Review of the Operation and Implementation of the SPS Agreement	G/SPS/W/270 and G/SPS/W/270/Add.1
	2013	Report on Workshop on SPS-related Market Access Challenges and Opportunities	G/SPS/R/72
	2014	Fourth Review of the Operation and Implementation of the SPS Agreement - Summary of Proposals submitted by Members	G/SPS/GEN/1307
	2014	Fourth Review - Background Document	G/SPS/GEN/1312 and G/SPS/GEN/1312/Corr.1
	2014	Inter-Agency Liaison Group on Invasive Alien Species - Recent activities of group members	G/SPS/GEN/1320
	2014	Fourth Review – Draft Report	G/SPS/W/280 and G/SPS/W/280/Corr.1
	2014	Workshop on Risk Analysis - Draft programme	G/SPS/GEN/1336
	2014	India's Request for Information on Organic Product Notification	G/SPS/GEN/1354

**APPENDIX B: LIST OF SPS COMMITTEE DOCUMENTS SUBMITTED BY MEMBERS 2010-2014****A. Comments/Proposals regarding Transparency (Article 7 and Annex B)**

Year	Member	Title/Subject	Symbol
2010	European Union	Experience After the Revision of the Transparency Provisions of the SPS Agreement	G/SPS/GEN/1044
	Morocco	Authority Responsible for the Implementation of the WTO SPS Agreement and Serving as the Enquiry Point	G/SPS/GEN/1017
	Morocco	Moroccan Authority Responsible for Implementation of the WTO SPS Agreement	G/SPS/GEN/1039
	Morocco	Measures Taken by Morocco to Implement the Transparency Obligations of the SPS Agreement	G/SPS/GEN/1047

**B. Comments/Proposals regarding monitoring the use of international standards (Article 3.5 and 12.4)**

Year	Member	Title/Subject	Symbol
2010	Argentina	Procedure to monitor the use of international standards	G/SPS/W/255
	Canada	Work of the Committee Arising from the Third Review – Proposed Priorities – Cooperation between the SPS Committee and the International Standards-Setting Bodies	G/SPS/W/253
	Indonesia	Implementation of the International Standard for Phytosanitary Measures (ISPM) No. 15 concerning Wood Packaging Material	G/SPS/GEN/998
	Japan	Work of the Committee Arising from the Third Review – Proposed Priorities – Cooperation between the SPS Committee and the International Standards-Setting Bodies	G/SPS/W/251
2011	Canada/Japan	Review of the Operation and Implementation of the SPS Agreement Proposal to Advance Recommendation 3 of the Workshop between the SPS Committee and the International Standard-setting Bodies (G/SPS/R/57)	G/SPS/W/258
	Costa Rica	Defense of the Scientific Principles of Codex - Ractopamine	G/SPS/GEN/1092
2012	Argentina	Revision of the Procedure to Monitor the Process of International Harmonization	G/SPS/W/268
	Argentina/ Australia/Brazil/ Canada Chile/Colombia/ Costa Rica/ New Zealand/ Paraguay/Peru/ Philippines/ United States of America	SPS Measures and International Standards, Guidelines and Recommendations	G/SPS/GEN/1143/Rev.2
	Chile/United States of America	International Standard-Setting Bodies' Involvement in the WTO SPS Committee on Specific Trade Concerns – Proposal by Chile and the United States	G/SPS/W/267
2013	Brazil	50 <sup>th</sup> anniversary of the Codex Alimentarius Commission - The importance of the scientific principle	G/SPS/GEN/1253

### C.1 Information regarding Members' provision of technical assistance and training activities (Article 9)

Year	Member	Title/Subject	Symbol
2010	Australia	Technical Assistance to Developing Countries provided by Australia	G/SPS/GEN/717/Add.2
	Canada	Technical Assistance to Developing Countries	G/SPS/GEN/1008 and G/SPS/GEN/1027
	Philippines	EU Trade-Related Technical Assistance Project – Standards Harmonization and SPS Conformity	G/SPS/GEN/995
	United States of America	Technical Assistance to Developing Countries	G/SPS/GEN/181/Add.8
2011	Canada	Technical Assistance to Developing Countries	G/SPS/GEN/1099
	European Union	Overview of SPS Related Technical Assistance Activities	G/SPS/GEN/1074
	United States of America	Technical Assistance to Developing Countries	G/SPS/GEN/181/Add.9/Rev.1 and G/SPS/GEN/181/Add.9/Rev.1/Corr.1
2012	Australia	Technical Assistance to Developing Countries	G/SPS/GEN/717/Add.3
	Canada	Technical Assistance to Developing Countries	G/SPS/GEN/1149 and G/SPS/GEN/1196
	European Union	Technical Assistance to Developing Countries	G/SPS/GEN/1139
	European Union/Philippines	Standards Harmonization and SPS Conformity under the Trade Related Technical Assistance Project 2 (TRTA 2) – A Joint Project of the Philippines and the European Union	G/SPS/GEN/1154
2013	Japan	Technical Assistance to Developing Countries	G/SPS/GEN/1160
	European Union	Technical Assistance to Developing Countries	G/SPS/GEN/1139/Add.1
	Japan	Technical Assistance to Developing Countries	G/SPS/GEN/1160/Add.1 and G/SPS/GEN/1160/Add.1/Corr.1
	United States of America	Technical Assistance to Developing Countries	G/SPS/GEN/181/Add.10
2014	Australia	Technical Assistance to Developing Countries	G/SPS/GEN/717/Add.4
	Canada	Technical Assistance to Developing Countries	G/SPS/GEN/1318, G/SPS/GEN/1342 and G/SPS/GEN/1342/Corr.1
	European Union	Technical Assistance to Developing Countries	G/SPS/GEN/1139/Add.2
	Japan	Technical Assistance to Developing Countries	G/SPS/GEN/1160/Add.2

### C.2 Information regarding Members' technical assistance and training needs (Article 9)

Year	Member	Title/Subject	Symbol
2010	Dominican Republic	Technical Assistance	G/SPS/GEN/1034
	Kenya	Technical Assistance	G/SPS/GEN/1020
	Madagascar	Establishment of a National SPS Committee	G/SPS/GEN/1011
	Morocco	National SPS Workshop organized by the WTO in Morocco (Rabat) on 18 and 19 September 2012	G/SPS/GEN/1199
	Pakistan	Need for Technical Assistance and Global Cooperation	G/SPS/GEN/1188/Rev.1
2013	Belize	Technical assistance - Information from Members	G/SPS/GEN/1239
	Botswana	National SPS Workshop in October 2012	G/SPS/GEN/1223
	Costa Rica	National Seminar on the SPS Agreement	G/SPS/GEN/1294

Year	Member	Title/Subject	Symbol
	Philippines	Report on the follow-up national workshop on the SPS agreement for the Philippine Department of Agriculture Regulatory Agencies and the SPS Workshop for Regional Regulatory	G/SPS/GEN/1275

#### D. Comments/Proposals regarding special and differential treatment (Article 10)

Year	Member	Title/Subject	Symbol
2010	Cuba	Statement on the Issues of Technology Transfer and Private Standards	G/SPS/GEN/1055

#### E. Information regarding Members' experience related to Regionalization (Article 6)

Year	Member	Title/Subject	Symbol
2010	Argentina	Actions Aimed at the Implementation of the WTO SPS Agreement	G/SPS/GEN/994
	Argentina	Analysis of Risk Factors Associated with BSE in Argentina	G/SPS/GEN/1038
	Argentina	National Programme for the Prevention and Eradication of Lobesia Botrana	G/SPS/GEN/1059
	Madagascar	Detection of Varroasis in Madagascar	G/SPS/GEN/1012
	Paraguay	Health Status Report	G/SPS/GEN/1023
	Philippines	FMD Status	G/SPS/GEN/1031
2011	Argentina	Information on Official OIE Recognition of Food and Mouth Disease Free Status	G/SPS/GEN/1128
	China	An Introduction to China's Regionalization Management System on Food Safety	G/SPS/GEN/1101
	Colombia	Bovine Tuberculosis Status	G/SPS/GEN/1060
	Colombia	Brucellosis Status	G/SPS/GEN/1061
	Colombia	National Plan for the Detection, Control and Eradication of Fruit Flies	G/SPS/GEN/1064
	Colombia	Avian Influenza Situation	G/SPS/GEN/1083
	Costa Rica	Detection of a Focus of the Huanglongbing Bacterium	G/SPS/GEN/1070
	European Union	Foot and Mouth Disease Status in Bulgaria	G/SPS/GEN/1072 and G/SPS/GEN/1072/Add.1
	Jamaica	Information on the Activities to Control Huanglongbing	G/SPS/GEN/1118
	Korea, Republic of	Highly Pathogenic Avian Influenza Situation	G/SPS/GEN/1116
	Mexico	Report on the Epidemiological Analysis of Outbreaks of Venezuelan Equine Encephalitis (Enzootic IE Strain)	G/SPS/GEN/1124
	Paraguay	Report on Health Status Developments	G/SPS/GEN/1077 and G/SPS/GEN/1081
2012	Argentina	Information on the Recognition of Fruit Fly Free Areas	G/SPS/GEN/1178
	Argentina	Sanitary Status of Foot and Mouth Disease (FMD)	G/SPS/GEN/1179
	Argentina	Health Status with regard to Bovine Spongiform Encephalopathy (BSE) and other Transmissible Spongiform Encephalopathies (TSE)	G/SPS/GEN/1180
	Botswana	Re-entry into the EU Beef Market by Botswana	G/SPS/GEN/1162
	Chile	Establishing Compartmentalization as a Tool for Health Management	G/SPS/GEN/1147
	European Union	Review of the EU Plant Health Regime – Update	G/SPS/GEN/1145

Year	Member	Title/Subject	Symbol
	European Union	Application of Article 6 of the Agreement on Sanitary and Phytosanitary Measures	G/SPS/GEN/1159
	European Union	Restriction to Trade adopted in relation to the occurrence of the Schmallenberg Virus in the European Union	G/SPS/GEN/1161
	Mexico	Information on Outbreaks of the AH7N3 Avian Influenza Virus	G/SPS/GEN/1175
	Mexico	Declaration of Mexico as an Area Free from Avian Salmonellosis	G/SPS/GEN/1184
	Mexico	Declaration of Mexico as an Area Free from Classical Swine Fever	G/SPS/GEN/1185
	Mexico	Declaration of the State of Tabasco as an Area Free from Aujeszky's Disease	G/SPS/GEN/1189
	Mexico	Declaration of the State of Coahuila, excluding the Lagunera Region, as an Area Free from Aujeszky's Disease	G/SPS/GEN/1190
	Mexico	National Tick ( <i>Boophilus</i> Spp.) Control Campaign	G/SPS/GEN/1192
	Mexico	Declaration of Various Municipalities and Communities in the State of Guerrero as Areas with a Low Prevalence of Fruit Flies of the Genus <i>Anastrepha</i>	G/SPS/GEN/1207
	Mexico	Declaration of Various Municipalities in the State of Chihuahua as Areas Free from Pink Bollworm and Boll Weevil	G/SPS/GEN/1208
	Mexico	Declaration of Certain Regions in the State of Morelos as Areas Free from Fruit Flies of the Genus <i>Anastrepha</i>	G/SPS/GEN/1209
	Mexico	Declaration of the Municipality of Sayula, Jalisco, as an Area Free from Avocado Seed Weevils and Moths	G/SPS/GEN/1210
2013	Brazil	Bovine Spongiform Encephalopathy case in Brazil	G/SPS/GEN/1232
	Chile	Declaration of Chile as a country free from caprine and ovine Brucellosis	G/SPS/GEN/1229
	Costa Rica	Statement by Costa Rica on the sanitary status of bovine spongiform encephalopathy (BSE)	G/SPS/GEN/1263
	Guatemala	Declaration of areas free of Mediterranean fruit fly ( <i>Ceratitis capitata</i> wied) and other fruit flies	G/SPS/GEN/1274
	Honduras	Declaration of a pest free area (for <i>Ceratitis Capitata</i> Wied. ) in accordance with ISPM no. 10	G/SPS/GEN/1222
	Japan	Current status after the nuclear power plant accident	G/SPS/GEN/1233
	Mexico	Communication regarding two new cases of highly pathogenic avian influenza in the State of Aguascalientes, Mexico	G/SPS/GEN/1212
	Mexico	Declaration of the State of Nayarit as an area free from Aujeszky's disease	G/SPS/GEN/1214
	Mexico	Declaration of the State of Tlaxcala as an area free from the tick <i>Boophilus</i> spp	G/SPS/GEN/1215
	Mexico	Declaration of the municipality of Purépero, Michoacán, as an area free from avocado seed weevils and moths	G/SPS/GEN/1265
	Mexico	Declaration of municipalities in the State of Aguascalientes as an area free from fruit flies of the genus <i>Anastrepha</i>	G/SPS/GEN/1266

Year	Member	Title/Subject	Symbol
	Mexico	Decision declaring the Municipality of Asientos in the State of Aguascalientes to be an area free from fruit flies of the quarantine-significant genus	G/SPS/GEN/1267
	Mexico	Declaration of various communities in the State of Michoacán as areas with a low prevalence of fruit flies of the genus <i>Anastrepha</i>	G/SPS/GEN/1268
	Mexico	Declaration of the State of Sonora as an area free from the tick <i>Boophilus</i> spp.	G/SPS/GEN/1286
	Mexico	Declaration of the Municipality of Urique, Chihuahua, as an area free from the tick <i>Boophilus</i> spp.	G/SPS/GEN/1287
	Paraguay	Phytosanitary emergency due to the detection of citrus greening disease (Huanglongbing, HLB)	G/SPS/GEN/1219
	Paraguay	Sanitary status concerning foot and mouth disease - 2013	G/SPS/GEN/1238
	Paraguay	Citrus greening disease (Huanglongbing, HLB)	G/SPS/GEN/1273
	Peru	Peru: country free from citrus black spot, sweet orange scab, citrus canker, citrus variegated chlorosis, citrus leprosis and Huanglongbing	G/SPS/GEN/1243
	Peru	OIE recognition of Peru as a foot-and-mouth disease-free country	G/SPS/GEN/1281
	Philippines	Philippines area freedom from mango pulp weevil (MPW) and mango seed weevil (MSW)	G/SPS/GEN/1278
2014	Argentina	OIE recognition of Argentina as a country free from contagious bovine pleuropneumonia and peste des petits ruminants	G/SPS/GEN/1347
	Armenia	Animal health risk assessment and zoning reports	G/SPS/GEN/1309
	Guatemala	Questions posed by the Delegation of Senegal concerning areas free from Mediterranean fruit fly	G/SPS/GEN/1326
	Honduras	Declaration of a pest free area (for <i>Ceratitis Capitata</i> Wied. ) in accordance with ISPM No. 10	G/SPS/GEN/1300
	Mexico	Declaration of areas free from large avocado seed weevils ( <i>Heilipus Lauri</i> ), small avocado seed weevils ( <i>Conotrachelus Aguacatae</i> and <i>C. Perseae</i> ) and avocado seed moths ( <i>Stenoma Catenifer</i> )	G/SPS/GEN/1297
	Mexico	Declaration of an area with a low prevalence of fruit flies of the genus <i>Anastrepha</i> of quarantine significance and <i>rhagoletis Pomonella</i>	G/SPS/GEN/1298
	Mexico	Declaration of area free from large avocado seed weevils, small avocado seed weevils and avocado seed moths	G/SPS/GEN/1299
	Mexico	Declaration of area free from large avocado seed weevils, small avocado seed weevils and avocado seed moths	G/SPS/GEN/1301
	Mexico	Declaration of areas free from large avocado seed weevils, small avocado seed weevils and avocado seed moths	G/SPS/GEN/1302
	Mexico	Declaration of the State of Mexico as an area free from Aujeszky's disease	G/SPS/GEN/1303



Year	Member	Title/Subject	Symbol
	Mexico	Declaration of areas free from large avocado seed weevils, small avocado seed weevils and avocado seed moths	G/SPS/GEN/1349
	Peru	Declaration as a country free of bluetongue	G/SPS/GEN/1331
	Thailand	Declaration of Thailand as an area free from <i>Pantoea stewartii</i> subsp. <i>stewartii</i>	G/SPS/GEN/1352

**F. Comments/Proposals regarding Monitoring Implementation of the Agreement (Articles 12.1 and 12.2) – Specific trade concerns/Use of Ad Hoc Consultations**

Year	Member	Title/Subject	Symbol
2010	Brazil	Ad Hoc Consultations	G/SPS/GEN/1052
	European Union	Updated List of Specific Trade Concerns Raised in the SPS Committee	G/SPS/GEN/1051
	Morocco	Brazilian Draft Technical Regulation on the Identity and Quality of Canned Sardines	G/SPS/GEN/1048
	Nicaragua	Measures Applied by Mexico to Imports of Bovine Meat	G/SPS/GEN/1056
2011	Canada	Canadian Experience Using Article 12.2 Ad Hoc Consultations to Facilitate the Resolution of an SPS Trade-related Issue	G/SPS/GEN/1080
	Chile	Ad Hoc Consultations of Negotiations among Members under Article 12.2 of the SPS Agreement	G/SPS/W/263
	Madagascar	EU Decision Concerning Certain Protective Measures with Regard to Certain Products Originating from Madagascar	G/SPS/GEN/1113
	Norway	Quarantine and Testing Procedures Applied to Salmon Imported from Norway – Questions to China	G/SPS/GEN/1090
	Paraguay	Maximum Residue Limits for Certain Agricultural Pesticides Applied to Sesame	G/SPS/GEN/1091
	Peru	Regulation 258/97 of the European Parliament and of the Council Concerning Novel Foods	G/SPS/GEN/1087
	Peru	Implementation of Regulation 258/97 Concerning Novel Foods	G/SPS/GEN/1117
2012	Cameroon/Colombia/Ecuador/Ghana/Mexico/Nicaragua/Peru	New Maximum Cadmium Levels for Foodstuff in the European Union	G/SPS/GEN/1173/Rev.1
	Peru	Restrictions on Access to the European Market through the Implementation of Regulation 258/97 concerning Novel Foods	G/SPS/GEN/1137
	Peru	Implementation of Regulation. 258/97 concerning Novel Foods	G/SPS/GEN/1194
2013	European Union	Notification G/SPS/N/RUS/8	G/SPS/GEN/1216
	European Union	Updated list of specific trade concerns raised in the WTO SPS Committee	G/SPS/GEN/1269
	Paraguay	Maximum residue limits for certain agricultural pesticides applied to sesame	G/SPS/GEN/1220
	Paraguay	Maximum residue limits for certain agricultural pesticides applied to sesame by Japan	G/SPS/GEN/1272
	Peru	Implementation of Regulation. 258/97 concerning Novel Foods	G/SPS/GEN/1218
	Peru	Application and amendment of European Union Regulation. 258/97 concerning Novel Foods	G/SPS/GEN/1280

Year	Member	Title/Subject	Symbol
2014	European Union	Notification G/SPS/N/RUS/48	G/SPS/GEN/1305
	European Union	Comments on Notification G/SPS/N/RUS/49	G/SPS/GEN/1313
	Nicaragua	Analysis of the Sanitary Regulations for the Importation of Brazilian Meat into the United States	G/SPS/GEN/1330
	Russian Federation	Comments on G/SPS/GEN/1305	G/SPS/GEN/1315

### G. Review of the Agreement

Year	Member	Title/Subject	Symbol
2010	Argentina	Work of the Committee Emanating from the Third Review – Proposed Priority Issues	G/SPS/W/252
2011	Canada/ New Zealand	Work of the Committee Emanating from the Third Review – Proposed Priority Issues – Comments on the Communication from Argentina	G/SPS/W/257
2013	Canada	Fourth Review – Catalogue of Instruments	G/SPS/W/271
2014	Canada/ Kenya	Fourth Review – Catalogue of instruments available to WTO Members to manage SPS issues	G/SPS/W/279
	Chile/Morocco/ Norway/ European Union	Fourth Review – Transparency (Article 7 and Annex B)	G/SPS/W/277
	Chile/Morocco/ Norway/ European Union	Fourth Review – Transparency (Article 7 and Annex B) – Proposals for Actions	G/SPS/W/278
	European Union	Fourth Review - Transparency (Article 7 and Annex B)	G/SPS/W/274
	United States of America	Fourth Review – Workshop on decision making and communication during the risk analysis process	G/SPS/W/275

### H. SPS-Related Private Standards

Year	Member	Title/Subject	Symbol
2010	Cuba	Statement on the Issues of Technology Transfer and Private Standards	G/SPS/GEN/1055
2013	Belize	Concerns with Private and Commercial Standards	G/SPS/GEN/1240
	Belize	Actions regarding SPS-related Private Standards	G/SPS/GEN/1290
	Belize	Actions regarding SPS-related Private Standards	G/SPS/GEN/1291
	China/ New Zealand	Proposed Working Definition of SPS-related Private Standards	G/SPS/W/272
	China	Actions regarding SPS-related Private Standards	G/SPS/GEN/1261
2014	Belize	SPS-related Private Standards	G/SPS/GEN/1327
	China/ New Zealand	Report of the Co-Stewards of the Private Standards E-Working Group on Action 1 (G/SPS/55)	G/SPS/W/276
	China/ New Zealand	Second Report of the Co-Stewards of the Private Standards E-Working Group on Action 1 (G/SPS/55)	G/SPS/W/281



**I. Other**

<b>Year</b>	<b>Member</b>	<b>Title/Subject</b>	<b>Symbol</b>
2010	Argentina	Phytosanitary Import Authorizations (AFIDI)	G/SPS/GEN/1041 and G/SPS/GEN/1041/Add.1
	Argentina	On-site Audit Procedures	G/SPS/W/254
	Dominican Republic	Activities of Members	G/SPS/GEN/1014
	Kenya	Activities of Members	G/SPS/GEN/1019
	Malawi	Information on Relevant Activities	G/SPS/GEN/1013
	Mexico	Publication of the National Standardization Programme for 2010	G/SPS/GEN/491/Add.11 and G/SPS/GEN/491/Add.12
	Philippines	Pilot Implementation of the INS Trade Software System	G/SPS/GEN/1001
	Zambia	Report on SPS Activities of the Plant Quarantine and Phytosanitary Service	G/SPS/GEN/996
	Argentina	National Plan for the Prevention of Entry and Transmission of Pests and Diseases through Waste Regulation	G/SPS/GEN/1129
2011	Argentina	Organizational Structure of SENASA – National Agriculture and Food Health and Quality Service	G/SPS/GEN/1130
	Belize	Comprehensive Surveillance Programme for Bovine Tuberculosis, Bovine Brucellosis, BSE and the Implementation of an Animal Identification System	G/SPS/GEN/1107
	Canada	Entry into Force of Canada's Aquatic Animal Health Regulations	G/SPS/GEN/1122
	European Union	Transitional Review Mechanism Pursuant to Para. 18 of the Protocol on the Accession of China – Questions from the EU to China concerning SPS	G/SPS/W/262
	European Union	Establishment of a List of Approved or Registered Establishments and Plants for the Import or Transit of Animal By-products	G/SPS/GEN/1063
	European Union	The European Union's Approach to SPS Audits and Inspections in Third Countries	G/SPS/GEN/1095
	Korea, Republic of	Quarantine Inspection Agency	G/SPS/GEN/1104
	Mexico	Use of Electronic Sanitary and Phytosanitary Certificates in World Trade	G/SPS/W/264
	Mexico	National Standardization Programme for 2011	G/SPS/GEN/491/Add.13 and G/SPS/GEN/491/Add.14
	New Zealand	Amalgamation of the New Zealand Food Safety Authority and the Ministry of Agriculture and Forestry	G/SPS/GEN/1071
	New Zealand	Change to Format for Phytosanitary Certificates	G/SPS/GEN/1103
2012	Argentina	New Version of Phytosanitary Certificate	G/SPS/GEN/1191
	Brazil	Importance of Scientific Advice Body – Science for Safe Food	G/SPS/GEN/1165
	Canada	Transition Process for Foods Marketed as Natural Health Products to the Food Regulator Framework	G/SPS/GEN/1170
	European Union	General Guidance on Implementation and Interpretation of Article 24 of Council Directive 97/78/EC – Re-enforced Checks	G/SPS/GEN/1167
	European Union	New Models of Health Certificates for the Import of Aquatic Animals and Fishery Products	G/SPS/GEN/1211

Year	Member	Title/Subject	Symbol
	Mexico	National Standardization Programme for 2012	G/SPS/GEN/491/Add.15 and G/SPS/GEN/491/Add.16
	Mexico	Publication of the Regulations relating to the Federal Law on Animal Health in the Official Journal of 21 May 2012	G/SPS/GEN/1176
	Mexico	Agreement establishing the Additives and Processing Aids in Food, Beverages and Food Supplements, the use thereof and Health Provisions	G/SPS/GEN/1177
	Mexico	Import and Export Certificates for Agricultural, Livestock, Aquaculture and Fisheries Products	G/SPS/GEN/1183
	New Zealand	Change of Name for the New Zealand Ministry of Agriculture and Forestry	G/SPS/GEN/1142
2013	Argentina	Phytosanitary Import Authorizations (AFIDI)	G/SPS/GEN/1041/Add.2
	Australia	Responses to Comments Received Following Release of the Draft Biosecurity Bill and Inspector-General of Biosecurity Bill	G/SPS/GEN/1213
	Canada	A New Regulatory Framework for Federal Food Inspection: Discussion Document	G/SPS/GEN/1282
	Costa Rica	Phytosanitary Certificate	G/SPS/GEN/1244 and G/SPS/GEN/1244/Corr.1
	Costa Rica	Ban on the Use of Methyl Bromide as a Fumigant for Agricultural Use	G/SPS/GEN/1295
	Ecuador	Action by Agrocalidad in the Framework of Ecuador's Single Window	G/SPS/GEN/1217
	European Union	Healthier Animals and Plants and a Safer Agri-Food Chain - A Modernised Legal Framework for a more Competitive European Union	G/SPS/GEN/1252
	Indonesia	Encouragement to Eliminate the Use of Non-Ecofriendly Methyl Bromide in Phytosanitary Treatments	G/SPS/GEN/1271
	Korea, Republic of	SPS-related Government Agency Changes in the Republic of Korea	G/SPS/GEN/1242
	Mexico	National Standardization Programme for 2013	G/SPS/GEN/491/Add.17 and G/SPS/GEN/491/Add.18
	Paraguay	Processed Products Certificate	G/SPS/GEN/1264
2014	Argentina	Phytosanitary Re-Export Authorizations	G/SPS/GEN/1296
	Armenia	Plant Health Risk Assessment Reports	G/SPS/GEN/1310
	Brazil	Encouragement to Eliminate the Use of Non-Ecofriendly Methyl Bromide in Phytosanitary Treatments	G/SPS/GEN/1323
	Burundi	Creation of the National Committee for the Coordination and Monitoring of Sanitary and Phytosanitary Measures	G/SPS/GEN/1306
	Burundi	Informations Concernant le Bureau Burundais de Normalisation et Contrôle de la Qualité	G/SPS/GEN/1308/Rev.1
	Mexico	National Standardization Programme for 2014	G/SPS/GEN/491/Add.19
	Mexico	Phytosanitary Measures to Control and Mitigate the Spread of the Spotted Wing Drosophila	G/SPS/GEN/1350
	Mexico	Phytosanitary Measures to Control and Mitigate the Spread of Pierce's Disease	G/SPS/GEN/1351
	New Zealand	New Zealand Ministry for Primary Industries is Changing its Electronic Certification for Dairy Products	G/SPS/GEN/1353

### APPENDIX C - WTO DISPUTES INVOKING THE SPS AGREEMENT

Since 1 January 1995, violations of the SPS Agreement have been alleged in the following disputes. Those which have been referred to a panel are highlighted in *italics*.

Please note that in the WTO, the European Union was officially called the European Communities until 30 November 2009. In this table, reference is made to "the European Communities" or "the EC" regarding dispute developments that took place before this date.

STC No.	DS Number	Parties and nature of complaint	Request for consultations	Panel/Appellate Body proceedings
1	WT/DS3	US complaint against Korea's inspection procedures for fresh fruits.	Consultations requested on 6/04/1995 (WT/DS3/1).	DSU consultations pending
2	WT/DS5	US complaint against Korea's shelf-life requirements for frozen processed meats and other products.	Consultations requested on 3/05/1995 (WT/DS5/1).	Mutually agreed solution notified on 20/07/1995 (WT/DS5/5).
3	WT/DS18	Canada's complaint against Australia's import restrictions on fresh, chilled or frozen salmon. <b>Australia - Salmon</b>	Consultations requested on 5/10/1995 (WT/DS18/1).	Panel established on 10/04/1997.  Appellate Body report (WT/DS18/AB/R) and Panel report (WT/DS18/R) adopted on 6/11/1998.  Suspension of concessions authorized on 24/12/1998; Request for Arbitration 3/08/1999 (WT/DS18/13).  Mutually agreed solution notified on 18/05/2000 (WT/DS18/RW).
4	WT/DS20	Canada's complaint against Korea's restrictions on treatment methods for bottled water	Consultations requested on 8/11/1995 (WT/DS20/1).	Mutually agreed solution notified on 24/04/1996 (WT/DS20/6).
5	WT/DS21	US complaint against Australia's import restrictions on fresh, chilled or frozen salmon. <b>Australia - Salmonids</b>	Consultations requested on 17/11/1995 (WT/DS21/1).	Mutually agreed solution notified on 27/10/2000 (WT/DS21/10).

STC No.	DS Number	Parties and nature of complaint	Request for consultations	Panel/Appellate Body proceedings
6	N/A WT/DS26	US complaint against EC's prohibition of meat from animals treated with growth-promoting hormones. <b>EC – Hormones (US)</b>	Consultations requested on 26/01/1996 (WT/DS26/1).	Panel established on 20/05/1996.  Appellate Body report (WT/DS26/AB/R) and Panel report (WT/DS26/R/USA) adopted on 13/02/1998.  Suspension of concessions authorized on 26/07/1999; Request for Arbitration on 22/12/2008 (WT/DS26/ARB).  Memorandum of Understanding notified on 25/09/2009 (WT/DS26/28). DSU consultations pending
7	STC 2* WT/DS41	US complaint against Korea's inspection procedures for fresh fruits.	Consultations requested on 24/05/1996 (WT/DS41/1).	
8	N/A WT/DS48	Canada's complaint against EC prohibition of meat from animals treated with growth-promoting hormones. <b>EC – Hormones (Canada)</b>	Consultations requested on 28/06/1996 (WT/DS48/1).	Panel established on 16/10/1996.  Appellate Body report (WT/DS48/AB/R) and Panel report (WT/DS48/R/CAN) adopted on 13/02/1998.  Suspension of concessions authorized on 26/07/1999; Request for Arbitration on 22/12/2008 (WT/DS48/ARB).  Memorandum of Understanding notified on 17/03/2011 (WT/DS48/26). Panel established on 18/11/1997.
9	STC 12 WT/DS76	US complaint against Japan's "varietal testing" requirement for fresh fruits. <b>Japan – Agricultural Products II</b>	Consultations requested on 7/04/1997 (WT/DS76/1).	Appellate Body report (WT/DS76/AB/R) and Panel report (WT/DS76/R) adopted on 19/03/1999.  Mutually satisfactory solution notified on 23/08/2001 (WT/DS76/12). Mutually agreed solution notified on 7/04/1998 (WT/DS96/8).
10	N/A WT/DS96	EC complaint against India's quantitative restrictions on agricultural and other products.	Consultations requested on 18/07/1997 (WT/DS96/1).	

STC No.	DS Number	Parties and nature of complaint	Request for consultations	Panel/Appellate Body proceedings
11	N/A	EC complaint against US restrictions on poultry imports.	Consultations requested on 18/08/1997 (WT/DS100/1).	DSU consultations pending
12	STC 4*	Switzerland's complaint against Slovakia's BSE-related restrictions on cattle and meat.	Consultations requested on 7/05/1998 (WT/DS133/1).	DSU consultations pending
13	N/A	India's complaint against EC restrictions on rice imports.	Consultations requested on 27/05/1998 (WT/DS134/1).	DSU consultations pending
14	N/A	Canadian complaint against EC (French) measures affecting asbestos. <b>EC - Asbestos</b>	Consultations requested on 28/05/1998 (WT/DS135/1).	Panel established on 25/11/1998.  Appellate Body report (WT/DS/135/AB/R) and Panel report (WT/DS/135/R) adopted on 5/04/2001. No findings under the SPS Agreement.
15	N/A	Canada's complaint against EC restrictions due to pine wood nematodes.	Consultations requested on 17/06/1998 (WT/DS137/1).	DSU consultations pending
16	N/A	Canada's complaint against US state restrictions on movement of Canadian trucks carrying live animals and grains.	Consultations requested on 25/09/1998 (WT/DS144/1).	DSU consultations pending
17	N/A	US complaint against Mexico's measures affecting trade in live swine.	Consultations requested on 10/07/2000 (WT/DS203/1).	DSU consultations pending
18	STC 77	Thailand's complaint against Egypt's GMO-related prohibition on imports of canned tuna with soybean oil.	Consultations request on 22/09/2000 (WT/DS205/1).	DSU consultations pending
19	STC 92	Ecuador's complaint against Turkey's import requirements for fresh fruit, especially bananas. <b>Turkey – Fresh Fruit Import Procedures</b>	Consultations requested on 31/08/2001 (WT/DS237/1).	Panel established on 29/07/2002; composition suspended on the same day.  Mutually agreed solution notified on 22/11/2002 (WT/DS237/4).
20	STC 100	US complaint against Japan's restrictions on apples due to fire blight. <b>Japan - Apples</b>	Consultations requested on 1/03/2002 (WT/DS245/1).	Panel established on 3/06/2002.  Appellate Body report (WT/DS245/AB/R) and Panel report (WT/DS245/R) adopted on 10/12/2003.  Mutually agreed solution notified on 30/08/2005 (WT/DS245/RW).

STC No.	DS Number	Parties and nature of complaint	Request for consultations	Panel/Appellate Body proceedings
21	STC 76*	Hungary's complaint against Turkey's restrictions on imports of pet food (BSE)	Consultations requested on 3/05/2002 (WT/DS256/1).	DSU consultations pending.
22	STC 74	Philippine complaint against Australia's restrictions on fresh fruits and vegetables, including bananas <b>Australia - Fresh Fruit and Vegetables</b>	Consultations requested on 18/10/2002 (WT/DS270/1).	Panel established on 29/08/2003.
23	STC 74	Philippine complaint against Australia's restrictions on pineapple	Consultations requested on 18/10/2002 (WT/DS271/1).	DSU consultations pending.
24	N/A	EC complaint against India's export and import policy	Consultations requested on 23/12/2002 (WT/DS279/1).	DSU consultations pending.
25	STC 164	Nicaragua's complaint against Mexico's phytosanitary restrictions on black beans	Consultations requested on 17/03/2003 (WT/DS284/1).	Mutually agreed solution notified on 8/03/2004 (WT/DS284/4 – withdrawal of request for consultations).
26	STC 139	EC complaint against Australian quarantine regime <b>Australia – Quarantine Regime</b>	Consultations requested on 3/04/2003 (WT/DS287/1).	Panel established on 7/11/2003.
27	STC 106/110	US complaint against EC on GMO approvals. <b>EC – Approval and Marketing of Biotech Products</b>	Consultations requested on 13/05/2003 (WT/DS291/1).	Mutually agreed solution notified on 9/03/2007 (WT/DS287/8). Single panel established for disputes DS291, DS292 and DS293 on 29/08/2003. Panel report (WT/DS291/R) was adopted on 21/11/2006.
28	STC 106/110	Canada's complaint against EC on GMO approvals. <b>EC – Approval and Marketing of Biotech Products</b>	Consultations requested on 13/05/2003 (WT/DS292/1).	Suspension of concessions authorized on 15/02/2008; Arbitration requested on 7/02/2008 (WT/DS291/34). Single Panel established to examine disputes DS291, DS292 and DS293, on 29/08/2003. Panel report (WT/DS292/R) adopted on 21/11/2006. Mutually agreed solution notified on 15/07/2009 (WT/DS292/40).



STC No.	DS Number	Parties and nature of complaint	Request for consultations	Panel/Appellate Body proceedings
29 STC 106/110	WT/DS293	Argentina's complaint against EC on GMO approvals. <b>EC – Approval and Marketing of Biotech Products</b>	Consultations requested on 14/05/2003 (WT/DS293/1).	Single Panel established to examine disputes DS291, DS292 and DS293, on 29/08/2003.  Panel report (WT/DS293/R) adopted on 21/11/2006.  Mutually agreed solution notified on 19/03/2010 (WT/DS293/41).  Mutually agreed solution notified on 30/01/2009 (WT/DS297/2).
30 STC 166	WT/DS297	Hungary's complaint against Croatia's restrictions on live animals and meat products (TSEs).	Consultations requested on 9/07/2003 (WT/DS297/1).	
31 N/A	WT/DS320**	EC complaint against the US continued suspension of obligations in the EC-Hormones dispute. <b>US – Continued Suspension of Obligations</b>	Consultations requested on 8/11/2004 (WT/DS320/1).	Panel established on 17/02/2005.  Appellate Body report (WT/DS320/AB/R) and Panel report (WT/DS320/R) adopted on 14/11/2008, <u>no further action was required</u> . (See also Memorandum of Understanding, DS26).  Panel established on 17/02/2005.
32 N/A	WT/DS321**	EC complaint against Canada's continued suspension of obligations in the EC-Hormones Dispute. <b>Canada – Continued Suspension of Obligations</b>	Consultations requested on 8/11/2004 (WT/DS321/1).	Appellate Body report (WT/DS321/AB/R) and Panel report (WT/DS321/R) adopted on 14/11/2008, <u>no further action was required</u> . (See also Memorandum of Understanding, DS48).

STC No.	DS Number	Parties and nature of complaint	Request for consultations	Panel/Appellate Body proceedings
33	STC 217	New Zealand's complaint against Australia's restrictions on apples. <b>Australia - Apples</b>	Consultations requested on 31/08/2007 (WT/DS367/1).	Panel established on 21/01/2008.  Appellate Body report (WT/DS367/AB/R) and Panel report (WT/DS367/R) adopted on 17/12/2010.  Reasonable period of time for implementation expired on 17/08/2011. Implementation notified by respondent on 02/09/2011.  Agreed procedures (Sequencing agreement) notified on 13/09/2011 (WT/DS367/21).
34	STC 91 of TBT	Canada's complaint against the US country of origin labelling requirements. <b>United States – Certain Country of Origin Labelling (COOL) Requirements</b>	Consultations requested on 1/12/2008 (WT/DS384/1).	Single panel established with that of Mexico (DS386) on 19/11/2009.  Appellate Body report (WT/DS384/AB/R) and Panel report (WT/DS384/R) adopted on 23/07/2012. No findings under the SPS Agreement.  Art. 21.5 Panel Report circulated on 20 October 2014.
35	STC 91 of TBT	Mexico's complaint against the US country of origin labelling requirements. <b>United States – Certain Country of Origin Labelling (COOL) Requirements</b>	Consultations requested on 17/12/2008 (WT/DS386/1).	Single panel established with that of Canada (DS384) on 19/11/2009.  Appellate Body report (WT/DS386/AB/R) and Panel report (WT/DS386/R) adopted on 23/07/2012. No findings under the SPS Agreement.  Art. 21.5 Panel Report circulated on 20 October 2014.
36	STC 242	US complaint against EC measures affecting poultry meat and poultry meat products. <b>EC - Poultry</b>	Consultations requested on 16/01/2009 (WT/DS389/1).	Panel established on 19/11/2009; composition pending.



STC No.	DS Number	Parties and nature of complaint	Request for consultations	Panel/Appellate Body proceedings
37 STC 247	WT/DS391	Canada's complaint against Korea's measures affecting the importation of bovine meat and meat products <b>Korea – Bovine Products</b>	Consultations requested on 9/04/2009 (WT/DS391/1).	Panel established on 31/08/2009; Panel proceedings suspended on 4/07/2011.  Mutually agreed solution notified on 19/06/2012 (WT/DS391/9).  Panel report (WT/DS391/R) circulated to Members on 3/07/2012, reporting on the solution reached by parties.
38 STC 257	WT/DS392	China's complaint against US measures affecting imports of poultry. <b>US – Poultry</b>	Consultations requested on 17/04/2009 (WT/DS392/1).	Panel established on 31/07/2009.  Panel report (WT/DS392/R) adopted on 25/10/2010, no further action required.
39 STC 257 of TBT	WT/DS406	Indonesia's complaint about US ban on clove cigarettes. <b>US - Measures Affecting the Production and Sale of Clove Cigarettes</b>	Consultations requested on 7/04/2010 (WT/DS406/1).	Panel established on 20/07/2010.  Appellate Body report (WT/DS406/AB/R) and Panel report (WT/DS406/R) adopted on 24/04/2012. No findings under the SPS Agreement.
40 STC 185	WT/DS430	US complaint against India's import restrictions on agricultural products. <b>India – Agricultural Products</b>	Consultations requested on 6/03/2012 (WT/DS430/1).	Panel established on 25/06/2012.  Panel composed on 18/02/2013; Panel report circulated on 14/10/2014.
41 STC 318	WT/DS447	Argentina's complaint against US restrictions on beef and other meat products. <b>US - Animals</b>	Consultations requested on 30/08/2012 (WT/DS447/1 and WT/DS447/1/Corr.1).	Panel established on 28/01/2013.  Panel composed on 08/08/2013; Panel proceedings on-going.
42 STC 336	WT/DS448	Argentina's complaint against US measures affecting the importation of fresh lemons.	Consultations requested on 3/09/2012 (WT/DS448/1 and WT/DS448/1/Corr.1).	DSU consultations pending.
43 STC 338	WT/DS475	EU's complaint against Russian measures affecting the importation of live pigs pork, pork products and certain other commodities because of African Swine Fever (ASF).	Consultations requested on 8/04/2014 (WT/DS475/1).	Panel established on 22/07/2014; Panel composed.

\* Whilst the DSU consultations on this case are pending, the Committee was notified that the specific trade concern itself had been resolved.

\*\* DS320, 321: Neither of these two requests for consultations claimed violation of the SPS Agreement, however, one of the issues of concern regarded the EC implementation of the rulings in WT/DS26 and WT/DS48; hence, the SPS Agreement was relevant to these disputes.





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**Committee on Sanitary and Phytosanitary Measures**

**CATALOGUE OF INSTRUMENTS AVAILABLE TO WTO MEMBERS TO MANAGE SPS ISSUES**

1. At its meeting of 1-2 March 2018, the Committee adopted the following Catalogue of Instruments available to WTO Members to Manage SPS issues. It is based on a proposal initially submitted by Canada and Kenya in the discussions of the Fourth Review. The Catalogue is intended only as a reference document to help Members address and manage SPS issues. It aims to facilitate the task of officials working on SPS issues by identifying relevant legal provisions, Committee work, and some other resources available for particular SPS-related tasks or activities. Their inclusion in the Catalogue is not meant to suggest that these instruments constitute necessary or mandatory steps in the completion of a certain task or activity.

2. This Catalogue neither adds to nor detracts from the existing rights and obligations of Members under the SPS Agreement or any other WTO Agreement.

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Tools available to Members	Description
Within the WTO SPS Agreement	
Request information on the measure from the WTO SPS Enquiry Point and/or Codex, IPPC and OIE contact points	<p data-bbox="403 1346 456 1872"><b>Legal provisions of the SPS Agreement</b> Annex B.3</p> <p data-bbox="488 237 544 1872">"Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:</p> <ul data-bbox="560 237 839 1872" style="list-style-type: none"> <li>a. any sanitary or phytosanitary regulations adopted or proposed within its territory;</li> <li>b. any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;</li> <li>c. risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;</li> <li>d. the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements."</li> </ul> <p data-bbox="871 1581 895 1872"><b>SPS Committee work</b></p> <p data-bbox="903 237 956 1872">According to Art. 7 and Annex B.3 of the SPS Agreement, WTO Members have to establish an Enquiry Point responsible for providing answers and documentation to all reasonable questions from interested Members.</p> <p data-bbox="987 237 1067 1872">The Committee has developed "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7)" (G/SPS/7/Rev.3<sup>1</sup> [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/7R3.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/7R3.pdf</a>]). The Recommended Transparency Procedures include guidance on the handling of comments on notifications.</p> <p data-bbox="1099 237 1152 1872">Contact information on SPS Enquiry Points and Notifications Authorities are available online from the SPS Information Management System (SPS IMS): <a href="http://spsims.wto.org">http://spsims.wto.org</a>.</p> <p data-bbox="1184 1637 1208 1872"><b>Outside the WTO<sup>1</sup></b></p> <p data-bbox="1216 797 1240 1872">Codex contact points are available from <a href="http://www.codexalimentarius.org/contact-links">http://www.codexalimentarius.org/contact-links</a>.</p> <p data-bbox="1256 853 1279 1872">IPPC contact points are available from <a href="https://www.ippc.int/countries/contactpoints">https://www.ippc.int/countries/contactpoints</a>.</p> <p data-bbox="1295 719 1319 1872">OIE delegates are available from <a href="http://www.oie.int/en/about-us/our-members/delegates-new">http://www.oie.int/en/about-us/our-members/delegates-new</a>.</p>

<sup>1</sup> A "technical" revision of G/SPS/7/Rev.3 is currently being undertaken and will be circulated as G/SPS/7/Rev.4 in 2018.

Tools available to Members	Description
Comment on notifications	<p><b>Legal provisions of the SPS Agreement</b> Annex B.5(d)</p> <p>"Members shall... (d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account."</p> <p><b>SPS Committee work</b> According to Annex B.5(d) of the SPS Agreement, Members are required to allow reasonable time for other Members to make comments in writing.</p> <p>The Recommended Transparency Procedures state that a 60-day comment period should be provided with respect to regular notifications.</p>
Meet to discuss comments on notification	<p><b>Legal provisions of the SPS Agreement</b> Annex B.5(d)</p> <p>"Members shall... (d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account."</p> <p><b>SPS Committee work</b> According to Annex B.5(d) of the SPS Agreement, Members are required to discuss comments made on notifications upon request, and to take the comments and results of these comments into account. For additional guidance, see also the Recommended Transparency Procedures.</p>
Request to meet bilaterally on margins of the SPS Committee	<p>Request to meet with another Member regarding a concern with an SPS issue. This can be a formal meeting or something less formal.</p> <p><b>Outside the WTO</b> Bilateral discussions prior to resorting to mediated settlement: A practice of many Members is to take advantage of being in Geneva for the WTO SPS Committee meeting to raise SPS market access issues with trading partners.</p>

Tools available to Members	Description
Request recognition of equivalence of specific SPS measure or measures related to a certain product or category of products, or on a systems-wide basis	<p><b>Legal provisions of the SPS Agreement</b> Article 4</p> <p>"4.1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.</p> <p>4.2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures."</p> <p><b>SPS Committee work</b> The Committee has developed guidelines to facilitate the application of Article 4 of the SPS Agreement: "Decision on the Implementation of Article 4 of the Agreement on the Application of SPS Measures (Equivalence)" (<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/19R2.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/19R2.pdf</a>).</p> <p><b>Outside the WTO</b> Codex standards, guidelines and recommendations are available from: <a href="http://www.fao.org/fao-who-codexalimentarius/codex-texts/list-standards/en/">http://www.fao.org/fao-who-codexalimentarius/codex-texts/list-standards/en/</a>. IPPC standards, guidelines and recommendations are available from: <a href="https://www.ippc.int/standards">https://www.ippc.int/standards</a>. OIE standards, guidelines and recommendations are available from: <a href="http://www.oie.int/international-standard-setting/overview">http://www.oie.int/international-standard-setting/overview</a>.</p>
Request recognition of pest- or disease-free areas and areas of low pest or disease prevalence	<p><b>Legal provisions of the SPS Agreement</b> Article 6</p> <p>"6.1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area — whether all of a country, part of a country, or all or parts of several countries — from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, <i>inter alia</i>, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.</p> <p>6.2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.</p>

Tools available to Members	Description
	<p>6.3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures."</p> <p><b>SPS Committee work</b></p> <p>The Committee has developed guidelines to facilitate the application of Article 6 of the SPS Agreement: "Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of SPS Measures (Regionalization)" (G/SPS/48 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/48.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/48.pdf</a>]). They include "Typical Administrative Steps in the Recognition Process".</p> <p><b>Outside the WTO</b></p> <p>IPPC standards, guidelines and recommendations are available from: <a href="https://www.ippc.int/standards">https://www.ippc.int/standards</a>.</p> <p>OIE standards, guidelines and recommendations are available from: <a href="http://www.oie.int/international-standard-setting/overview">http://www.oie.int/international-standard-setting/overview</a>.</p>
Request an explanation of the reasons for a sanitary or phytosanitary measure	<p><b>Legal provisions of the SPS Agreement</b></p> <p>Article 5.8</p> <p>"5.8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure."</p>
Request technical assistance	<p><b>Legal provisions of the SPS Agreement</b></p> <p>Article 9</p> <p>"9.1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, <i>inter alia</i>, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.</p> <p>9.2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved."</p>



Tools available to Members	Description
	<p><b>WTO technical assistance</b> For more information on technical assistance and training activities related to the SPS Agreement available from the WTO Secretariat, see: <a href="http://www.wto.org/spa/ta">http://www.wto.org/spa/ta</a>.</p>
Request Special and Differential Treatment	<p><b>Legal provisions of the SPS Agreement</b> Article 10.2</p> <p>"10.2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports."</p> <p><b>SPS Committee work</b> The Committee has developed guidelines to facilitate the application of Article 10.1 of the SPS Agreement: "Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members" (G/SPS/33/Rev.1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/33R1.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/33R1.pdf</a>]). They include procedures to be followed.</p>
Request specified, time-limited exceptions in whole or in part from obligations under the SPS Agreement	<p><b>Legal provisions of the SPS Agreement</b> Article 10.3</p> <p>"10.3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs."</p>
Request facilitated ad hoc consultations or negotiations (i.e. "Good Offices of the Chair") on specific sanitary or phytosanitary issues	<p>A process by which a Member can request facilitated discussions with another Member on specific SPS issues.</p> <p>Paragraph 6 of the Working Procedures of the Committee (G/SPS/1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf</a>]) states: "With respect to any matter which has been raised under the Agreement, the Chairperson may, at the request of the Members directly concerned, assist them in dealing with the matter in question..."</p> <p>Guidance on how to request facilitated ad hoc consultations or negotiations is found in "Procedure to Encourage and Facilitate the Resolution of Specific Sanitary or Phytosanitary Issues Among Members in Accordance with Article 12.2" (G/SPS/61 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/61.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/61.pdf</a>]).</p>



Tools available to Members	Description
Propose that a specific issue be considered under the regular Review of the Operation and Implementation of the SPS Agreement	<p><b>Legal provisions of the SPS Agreement</b> Article 12.7</p> <p>"12.7. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, <i>inter alia</i>, to the experience gained in its implementation."</p>
WTO SPS Committee agenda	
Raise an issue as a specific trade concern Agenda item of the WTO SPS Committee meeting	<p>Members may request, in writing to the Secretariat, to include an issue on the WTO SPS Committee Agenda for an upcoming meeting, up to, but not including, the day on which the notice convening the meeting is to be issued.</p> <p>This request should be made consistent with the timelines established by the Secretariat. Members proposing to raise any matter relevant to the implementation of the Agreement, including any matter relating to a particular notification, should give notice to the other Member(s) concerned with an outline of the matter to be raised, as far as possible in advance of the SPS Committee meeting.</p> <p>Working procedures of the WTO SPS Committee (G/SPS/1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf</a>]).</p>
Raise an issue under the "Monitoring of the Use of International Standards" Agenda item of the WTO SPS Committee meeting	<p>Members may request, in writing to the Secretariat, to include concrete examples of what they consider to be problems with a significant trade impact which are related to the non-existence or inappropriateness or non-use of relevant international standards, guidelines or recommendations on this issue, on the WTO SPS Committee Agenda for an upcoming meeting.</p> <p>This request to raise an issue on the Agenda should be made as per the timelines established by the Secretariat.</p> <p>WTO SPS Committee Decision, "Procedure to Monitor the Process of International Harmonization" (G/SPS/11/Rev.1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/11R1.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/11R1.pdf</a>]), paragraphs 6 and 7.</p>
Raise an issue under the "Regionalization" Agenda item of the WTO SPS Committee meeting	<p>Members may request to include a specific item regarding information on a Member's pest- or disease-free areas and areas of low pest or disease prevalence or on a Members' experience in recognition of pest-or disease-free areas.</p> <p>Working procedures of the WTO SPS Committee (G/SPS/1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf</a>]).</p> <p>The Committee has developed guidelines to facilitate the application of Article 6 of the SPS Agreement: "Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of SPS Measures (Regionalization)" (G/SPS/48 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/48.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/48.pdf</a>]).</p>

Tools available to Members	Description
Raise an issue under the "Equivalence" Agenda item of the WTO SPS Committee meeting	<p>Members may request to include a specific item regarding information on a Member's experience with equivalence on the WTO SPS Committee Agenda for an upcoming meeting.</p> <p>Working procedures of the WTO SPS Committee (G/SPS/1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1..pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1..pdf</a>]).</p> <p>The Committee has developed guidelines to facilitate the application of Article 4 of the SPS Agreement: "Decision on the Implementation of Article 4 of the Agreement on the Application of SPS Measures (Equivalence)" (G/SPS/19/Rev.2 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/19R2..pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/19R2..pdf</a>]).</p>
Raise an issue under the "Special and Differential Treatment" Agenda item of the WTO SPS Committee meeting	<p>Members may request to include a specific item regarding information on a Member's experience regarding special and differential treatment on the WTO SPS Committee Agenda for an upcoming meeting.</p> <p>Working procedures of the WTO SPS Committee (G/SPS/1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1..pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1..pdf</a>]).</p>
Within WTO system	
Ask questions as part of the Trade Policy Review process	<p>Each Member undergoes a trade policy review (the frequency of each country's review varies according to its share of world trade). WTO Members are given the opportunity to review and ask comments to another Member on its trade policy.</p> <p>For more information on the WTO Trade Policy Review mechanism, see: <a href="http://www.wto.org/TPR">http://www.wto.org/TPR</a>.</p>
Raise issues/ask questions as part of the WTO Accession process	<p>As countries seek to accede to the WTO, Members have the opportunity to raise specific issues with the acceding countries, including issues related to the acceding country's laws, regulations and requirements.</p> <p>For more information on the WTO accessions process, see: <a href="http://www.wto.org/accessions">http://www.wto.org/accessions</a>.</p>
Explore raising the issue in other WTO Bodies	<p>For example and as appropriate, the Committee on Import Licensing, Council on Trade in Goods, Committee on Trade Facilitation.</p>

Tools available to Members	Description
Request formal Dispute Settlement Consultations	<p data-bbox="288 1137 341 1870"><b>Legal provisions of Dispute Settlement Understanding</b> Article 4</p> <p data-bbox="371 226 400 1870">"4.1. Members affirm their resolve to strengthen and improve the effectiveness of the consultation procedures employed by Members.</p> <p data-bbox="429 226 512 1870">4.2. Each Member undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another Member concerning measures affecting the operation of any covered agreement taken within the territory of the former.<sup>3</sup></p> <p data-bbox="541 226 715 1870">4.3. If a request for consultations is made pursuant to a covered agreement, the Member to which the request is made shall, unless otherwise mutually agreed, reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution. If the Member does not respond within 10 days after the date of receipt of the request, or does not enter into consultations within a period of no more than 30 days, or a period otherwise mutually agreed, after the date of receipt of the request, then the Member that requested the holding of consultations may proceed directly to request the establishment of a panel.</p> <p data-bbox="743 226 826 1870">4.4. All such requests for consultations shall be notified to the DSB and the relevant Councils and Committees by the Member which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.</p> <p data-bbox="855 226 911 1870">4.5. In the course of consultations in accordance with the provisions of a covered agreement, before resorting to further action under this Understanding, Members should attempt to obtain satisfactory adjustment of the matter.</p> <p data-bbox="940 439 968 1870">4.6. Consultations shall be confidential, and without prejudice to the rights of any Member in any further proceedings.</p> <p data-bbox="997 226 1080 1870">4.7. If the consultations fail to settle a dispute within 60 days after the date of receipt of the request for consultations, the complaining party may request the establishment of a panel. The complaining party may request a panel during the 60-day period if the consulting parties jointly consider that consultations have failed to settle the dispute.</p> <p data-bbox="1109 226 1192 1870">4.8. In cases of urgency, including those which concern perishable goods, Members shall enter into consultations within a period of no more than 10 days after the date of receipt of the request. If the consultations have failed to settle the dispute within a period of 20 days after the date of receipt of the request, the complaining party may request the establishment of a panel.</p> <p data-bbox="1220 226 1276 1870">4.9. In cases of urgency, including those which concern perishable goods, the parties to the dispute, panels and the Appellate Body shall make every effort to accelerate the proceedings to the greatest extent possible.</p> <p data-bbox="1305 226 1361 1870">4.10. During consultations Members should give special attention to the particular problems and interests of developing country Members.</p>

Tools available to Members	Description
	<p>4.1.1. Whenever a Member other than the consulting Members considers that it has a substantial trade interest in consultations being held pursuant to paragraph 1 of Article XXII of GATT 1994, paragraph 1 of Article XXII of GATS, or the corresponding provisions in other covered agreements<sup>4</sup>, such Member may notify the consulting Members and the DSB, within 10 days after the date of the circulation of the request for consultations under said Article, of its desire to be joined in the consultations. Such Member shall be joined in the consultations, provided that the Member to which the request for consultations was addressed agrees that the claim of substantial interest is well-founded. In that event they shall so inform the DSB. If the request to be joined in the consultations is not accepted, the applicant Member shall be free to request consultations under paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATT 1994, paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATS, or the corresponding provisions in other covered agreements."</p>
Request formal "Good Offices, Conciliation and Mediation"	<p><b><i>Legal provisions of Dispute Settlement Understanding</i></b> Article 5</p> <p>"5.1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree."</p>
Request the establishment of a dispute settlement panel	<p><b><i>Legal provisions of Dispute Settlement Understanding</i></b> Article 6</p> <p>"6.1. If the complaining party so requests, a panel shall be established at the latest at the DSB meeting following that at which the request first appears as an item on the DSB's agenda, unless at that meeting the DSB decides by consensus not to establish a panel.<sup>5</sup></p> <p>6.2. The request for the establishment of a panel shall be made in writing. It shall indicate whether consultations were held, identify the specific measures at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly..."</p>

Tools available to Members	Description
Beyond WTO System	
IPPC dispute settlement procedures	<p>In cases where a phytosanitary dispute arises, contracting parties are encouraged to consult with the IPPC secretariat concerning the range of dispute settlement procedures that are available and what might be appropriate for the dispute in question. There are three main types of procedures: 1) informal consultation, formal consultation, good offices, mediation or arbitrations; 2) formal non-binding conciliation process; and 3) a dispute settlement procedure (may produce a binding agreement for the parties to the agreement).</p> <p><b>Note: the IPPC Dispute Settlement procedure is currently under review.</b></p> <p><b>Legal provisions of the SPS Agreement</b> Article 11.3</p> <p>"11.3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement."</p> <p><b>Outside the WTO</b> Article XIII of the IPPC Settlement of disputes (paragraphs 1-6) <a href="https://www.ippc.int/publications/1997-international-plant-protection-convention-new-revised-text">https://www.ippc.int/publications/1997-international-plant-protection-convention-new-revised-text</a>. Article XVI of the IPPC Supplementary agreements (paragraphs 1-3) <a href="https://www.ippc.int/publications/1997-international-plant-protection-convention-new-revised-text">https://www.ippc.int/publications/1997-international-plant-protection-convention-new-revised-text</a>.</p>
OIE informal mediation procedure	<p>In the case where an OIE member considers that another OIE member does not comply with OIE standards, both parties can agree to request the voluntary, informal OIE mediation procedure which focuses on scientific and technical aspects to seek to find a mutually agreeable solution.</p> <p><b>Legal provisions of the SPS Agreement</b> Article 11.3</p> <p>"11.3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement."</p> <p><b>Outside the WTO</b> Chapter 5.3.8 of the OIE Terrestrial Animal Health Code provides details on the OIE informal procedure for dispute mediation: <a href="http://www.oie.int/international-standard-setting/terrestrial-code/access-online">http://www.oie.int/international-standard-setting/terrestrial-code/access-online</a>.</p>

Tools available to Members	Description
Meet on issues bilaterally	At any time, a Member may request to hold a bilateral meeting or discussion regarding an SPS issue. Alternatively, these discussions could take place on the margins of regularly scheduled meetings.
	<b>Outside the WTO</b> Not a concept included in the WTO framework, however, can be a "best practice" when managing SPS issues.

Links to the major decisions and reference documents under the Sanitary and Phytosanitary Measures Committee can be found online at: [http://www.wto.org/english/tratop\\_e/sps\\_e/decisions06\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/decisions06_e.htm).

<sup>i</sup> All references to websites are current as of March 2018.