SPS Transparency Workshop
30-31 October 2017
Session 1: Transparency provisions of the SPS Agreement
Transparency is a foundational principle of WTO

- Member-driven Organization
- Consensus
- Participation open to all Members
- Transparency
- S&D and Sustainable Development
- Basic Principles and Exceptions (MFN, ...)

Transparency is a foundational principle of WTO.
Key Provisions: SPS Agreement

- Non-discrimination
- Scientific justification
  - harmonization
  - risk assessment
  - consistency
  - least trade-restrictiveness
- Equivalence
- Regionalization
- **Transparency**
- Technical assistance/special treatment
- Control, inspection and approval procedures
Why Transparency?

■ Regulatory requirements
  → changes may affect market access

■ Enhances clarity, predictability
  → facilitates trade & reduces trade disruptions/costs
  → Makes business environment predictable & stable
  → Gives businesses a clearer view of future opportunities: encourages investment

■ Advance warnings
  → more time to adapt

■ Improves accountability & responsiveness of regulatory system
  → seek info, consult, comment
Transparency obligations

1. Notification of draft regulations
2. Establishment of enquiry point
3. Designation of notification authority
4. Publication of regulations

SPS Article 7, Annex B
G/SPS/7/Rev.3
SPS Transparency: reference documents

- SPS Agreement: Article 7 & Annex B
- SPS Committee Decision: G/SPS/7/Rev.3
- Major Decisions and Documents

Available at: www.wto.org/spstransparency
Obligations
1. **Notification of draft regulations**

What to notify?

- New or modified regulation
  
- No existing international standard or different than the international standard
- Significant impact on trade (restricting or facilitating)
- Same as international standard (G/SPS/7/Rev.3)
1. Notification of draft regulations

When to notify?

Regular notifications

“shall be made at an early stage when amendments can still be introduced and comments taken into account before an SPS regulation is finalized.”

60-day comment period

Emergency measures

IMMEDIATELY!
1. Notification of draft regulations: What formats?

- In addition to original Regular or Emergency notifications, Members can provide additional information or changes through:
  - **Revision** – replacement of original notification
  - **Addendum*** – changes/updates
  - **Corrigendum*** – correct an error
  - **Supplement*** – availability of translation

*Read in conjunction with original notification.
1. Notification of draft regulations: How to access translations of regulations?

- Upon request, developed countries to provide regulation or its summary in English, French, or Spanish
- Members encouraged to share unofficial translations with each other – supplement format
1. **Notification of draft regulations:**
   Where to find the notification formats?

- G/SPS/7/Rev.3 – SPS Committee Recommended Procedures on Transparency
- WTO website – SPS Transparency toolkit
  - [www.wto.org/spstransparency](http://www.wto.org/spstransparency)
- SPS Notification Submission System (SPS NSS)
  - [https://nss.wto.org/spsmembers/](https://nss.wto.org/spsmembers/)
1. **Notification of draft regulations:** How to share text of draft regulations?

- Full texts of draft regulations
  - *Submit in PDF format to WTO*
  - *Provide specific website address in notification*
1. **Notification of draft regulations:**

**Recommended Procedures**

G/SPS/7/Rev.3

- Notify measures based on international standards
- Default choice – 60 day comment period
- Identify date of publication
- Date of entry into force – 6 months after date of publication
1. **Notification of draft regulations:**
What else to notify?

- **Recognition of equivalence:** measure recognized, products covered (G/SPS/7/Rev.3 – specific format, G/SPS/19/Rev.2 – implementation of Article 4)

- **Special and differential treatment:** difficulties with notified measure (G/SPS/33/Rev.1 – specific format)

- **Regionalization:** request and/or determination (G/SPS/48 – no specific format)
2. **Designation of NNA**: Who notifies?

- National Notification Authority (NNA)
  - Single central government authority responsible for the implementation of notification procedures e.g., agency responsible for food safety, animal and plant health

- Only one NNA
2. Designation of NNA: tasks of the NNA?

- Notifies other Members through WTO at an early stage (or immediately for emergency measures) to allow for comments/amendments
- Provides copies of proposed regulations upon request
- Ensures that comments are handled correctly
2. **Designation of NNA:**
Where should notifications be sent?

- Submission by NNA
  - Online via the SPS Notifications Submission System (SPS NSS)
  - Email (crn@wto.org)

Central Registry of Notifications (CRN)

Dissemination of the notification
Processing (CRN – WTO Secretariat)

- Review notifications for relevance to provisions of SPS Agreement and internal coherence;
  - Verify questions or errors with Members
- Convert into an official WTO documents and reflect information in databases (SPS IMS)
- Circulate and disseminate;
- Translate into the other two official WTO languages.
Dissemination

- SPS IMS – http://spsims.wto.org/
- WTO Documents Online: https://docs.wto.org/
- Integrated Trade Intelligence Portal (I-TIP): https://i-tip.wto.org/: Cross-cutting WTO NTMs database
- ePing SPS/TBT alert system (http://www.epingalert.org)
3. **Establishment of Enquiry Point**

- Provides answers to all *reasonable questions* from interested Members and relevant documentation
  - *Can be same as NNA*
  - *Can have more than one but clearly define responsibilities*
3. Establishment of Enquiry Point: All reasonable questions?

- Regarding:
  - *SPS regulations, draft or adopted*
  - *Inspection procedures, etc.*
  - *Risk assessment*

- Reply within 5 working days, or
- Provide an estimate of time for the reply
EP vs. NNA – which statement is true?

- The submission of notifications, provision of answers to all reasonable questions and the provision of relevant documents is the responsibility of the enquiry point.
- The implementation of the provisions concerning notification procedures falls under the responsibility of a single central government authority (the National Notification Authority).
4. Publication of regulations

- Members to publish all adopted regulations promptly
- Except in urgent circumstances, allow reasonable interval between publication and entry into force
  - Normally entry into force 6 months after date of publication
  - If trade facilitating, do not delay (WT/MIN(01)/17, para. 3.2)
Transparency timelines for SPS notifications

Drafting of the regulation → Publication of a notice → Notification to other Members → Draft text upon request (or website)

Publication of the regulation → Adoption of the regulation → End of comment period

Entry into force of the regulation

Minimum 60 days

Minimum 6 months
| Track/ filter/disseminate SPS documents and notifications to interested parties |
| Alert other government agencies, private sector, other stakeholders of important changes |
| Coordinate/submit comments on notifications of concern to trading partners; follow up |
| Lead/facilitate/participate in national SPS coordination body |
| Participate in SPS Committee work (information exchange, specific trade concerns) |
| Raise awareness at the national level; facilitate capacity building; seek assistance |
THANK YOU!

SPS Gateway
http://www.wto.org/sps