COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

MAJOR DECISIONS AND DOCUMENTS

SEPTEMBER 2011
COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

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September 2011
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September 2011

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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)\(^1\);

Hereby agree as follows:

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\(^1\)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.\(^2\) 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.

\(^2\)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.³

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.

³For 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

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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4For 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.
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\(^5\) 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\(^6\) 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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\(^5\)Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

\(^6\)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.
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 
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

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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7 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 Chairperson1 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.

1The 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 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. 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.

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.

\footnote{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.}
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.²

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.

²The 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.
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.

*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, no: 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. 3

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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3The 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

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

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.

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.

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

5In 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.
Committee on Sanitary and Phytosanitary Measures

WORKING PROCEDURES OF THE COMMITTEE\(^1\)

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.

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.

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\(^1\)These working procedures are to apply until consideration of this matter by the Committee at its second meeting.
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 épizooties (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.
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.

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.¹

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.² 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 Committee³, 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.⁴ 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

¹ 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.
² Codex, OIE and IPPC
³ G/SPS/GEN/512 (OIE), G/SPS/GEN/513 (IPPC) and G/SPS/GEN/514 (Codex).
⁴ 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.\(^5\) 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\(^6\), 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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\(^5\) See G/SPS/W/100.

\(^6\) See footnote 4.
World Trade Organization

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

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.
DEcision on the implementation of article 4 of the agreement on the application of sanitary and phytosanitary measures

Revision¹

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 the 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 or 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;

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

3 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. 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. 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.

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, and should encourage the maintenance of such a provision in the further elaboration of specific guidance by the Codex. The

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

6. The Interim Commission on Phytosanitary Measures (ICPM) noted the request of the SPS Committee at its 5th 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.
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. 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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7 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. 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. 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. 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. 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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8 G/SPS/7/Rev.2 and Rev.2/Add.1.
9 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.
GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF ARTICLE 5.5

At its meeting of 21-22 June 2000, the Committee adopted\(^1\) 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.

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.\(^2\)

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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\(^1\) 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.

\(^2\) "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. 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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3 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.4

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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4 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.
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\(^1\) the following guidelines to further the practical implementation of Article 6.

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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\(^1\) 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.
1. 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. Transparency under the SPS Agreement also includes answering reasonable questions, and publishing regulations.

2. 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.

3. 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.

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

4. 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.

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1 At its meeting of 2-3 April 2008, the SPS Committee adopted the revised Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7) on an ad referendum basis. Members who objected to the adoption of the guidelines were asked to make this known by 30 May 2008. No objections were raised by that date. In light of the required modifications to the SPS Information Management System (SPS IMS), which the Secretariat uses to generate and report on SPS notifications, these procedures, including the revised notification formats, will take effect as of 1 December 2008.

2 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.

3 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.
5. When a Member’s National Notification Authority or National Enquiry Point has been designated, or changed, the WTO Secretariat should be informed. The Secretariat regularly circulates a list of all Members' National Notification Authorities and National Enquiry Points, and this information is also available through the WTO's SPS web page (www.wto.org) and through the SPS Information Management System (http://spsims.wto.org). The National Enquiry Points are listed in the G/SPS/ENQ/ document series of the WTO, and the notification authorities are listed in the G/SPS/NNA/ series. 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
- Fax
- E-mail
- Website address

RECOMMENDED NOTIFICATION PROCEDURES

6. 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 routine 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.

A. APPLICATION OF ANNEX B, PARAGRAPH 5 (PREAMBULAR PART) OF THE SPS AGREEMENT

7. 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.

8. 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.4

9. 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.

10. 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

4 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.
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.

B. TIMING OF NOTIFICATIONS

11. 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.

12. 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.

13. 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 measures which facilitate trade 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.

14. 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.

15. 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.

C. REQUESTING DOCUMENTS RELATED TO A NOTIFICATION

16. 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.

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

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5 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.
D. PROVIDING DOCUMENTS RELATED TO A NOTIFICATION

Address of body supplying the documents

18. 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.

Responding to requests

19. 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.

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

21. Members should use fax and 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.

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

Acknowledging receipt of documents

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

Translation of documents

24. 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.

25. 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.

26. 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.

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6 See G/SPS/GEN/818.
27. 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.

28. 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.7

E. HANDLING OF COMMENTS ON NOTIFICATIONS

29. 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.

30. 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.

31. 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.

32. 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.

33. 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).

34. Members are also encouraged to use the "Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Countries" (G/SPS/33).

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7 See G/SPS/GEN/487 for further information on this mechanism.
F. ADDENDA, REVISIONS AND CORRIGENDA

35. 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.
- A revision is used to replace an existing notification.

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

Addenda

36. 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:

(a) if the comment period has been extended;
(b) 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;
(c) 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;
(d) if a proposed regulation is withdrawn;
(e) in the case of an emergency notification, an addendum should also be submitted if the period of application of the existing notification is extended.

37. An addendum should:

- 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;
- specify what change has been made and why - briefly state why the information, dates, etc. have been changed; and
- 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.
38. A form for making an addendum is available in Annex A-2 of these procedures for routine notifications and in Annex B-2 for notifications of emergency measures.

Revisions

39. 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.

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

Corrigenda

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

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

G. REGULATIONS THAT CONTAIN BOTH SPS AND TBT MEASURES

43. 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).

H. NOTIFICATION OF DETERMINATION OF THE RECOGNITION OF EQUIVALENCE OF SANITARY OR PHYTOSANITARY MEASURES

44. 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.

45. 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.

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

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8 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 has been incorporated into this Revision.
47. 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.

I. COMPLETED NOTIFICATIONS

48. Notifications should be sent, preferably by E-mail, but if not by fax or air mail, from the National Notification Authority to the central registry of notifications (CRN) at the WTO. The address is:

Central Registry of Notifications
World Trade Organization
Rue de Lausanne 154
1211 Geneva 21
Switzerland
Fax: (+41 22) 739 5638

49. 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

50. 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).

51. 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.

GUIDELINES FOR NATIONAL ENQUIRY POINTS

52. 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.

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

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

54. 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.

55. 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.

56. 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.
57. Members should also refer to the guidelines on transparency contained in the handbook *How to apply the transparency provisions of the SPS Agreement* (November 2000), when notifying regulations and operating National Enquiry Points in accordance with Article 7 and Annex B of the SPS Agreement.9

**PUBLICATION OF REGULATIONS**

58. 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.

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

(a) 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;

(b) 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.

60. As agreed in the Doha Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17, para. 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.

61. 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.

62. 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:

(a) allows for greater transparency;
(b) makes it easier for Members to obtain documents; and
(c) reduces the amount of work involved in processing and fulfilling document requests.

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9 A practical procedural manual on the operation of National Enquiry Points and Notification Authorities is under preparation. Once it is finalized, the manual will be posted on the WTO website for access by all interested parties.
ACCESS TO INTERNATIONAL ELECTRONIC RESOURCES RELATED TO SPS NOTIFICATIONS AND OTHER SPS INFORMATION

63. 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 and SPS Information Management System (SPS IMS) (http://spsims.wto.org) as well as the FAO's International Portal on Food Safety, Animal and Plant Health (http://www.ipfsaph.org).

64. 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 web page. Official national SPS-related documentation and information can also be provided to the FAO’s International Portal on Food Safety, Animal and Plant Health for publication.
ANNEX A-I: ROUTINE NOTIFICATIONS

COMPLETION OF FORMATS - ROUTINE 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.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Member notifying Government, including the competent authorities of the European Communities, which is making the notification.</td>
</tr>
<tr>
<td>2.</td>
<td>Agency responsible Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.</td>
</tr>
<tr>
<td>3.</td>
<td>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.</td>
</tr>
<tr>
<td>4.</td>
<td>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.</td>
</tr>
</tbody>
</table>
| 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. |
<p>| 6.   | Description of content 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. When a regulation contains both SPS and TBT measures, it should be notified according to both the SPS and TBT Agreements. |</p>
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<th>Item</th>
<th>Description</th>
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<td></td>
<td>preferably with an indication of which parts of the regulation fall under the SPS Agreement and which parts fall under the TBT Agreement.</td>
</tr>
<tr>
<td>7. Objective and rationale</td>
<td>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.</td>
</tr>
<tr>
<td>8. Existence of international standard, guideline or recommendation</td>
<td>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. If no international standard, guideline or recommendation exists, put a cross in the box &quot;none&quot;.</td>
</tr>
<tr>
<td>9. Other relevant documents and language(s) in which these are available</td>
<td>Documents referenced here are different from those listed in box 5. Documents which should be referenced include: (a) Publication where notice of the proposed regulation appears, including date and reference numbers; (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; (c) Publication in which proposal will appear when adopted. If it is necessary to charge for documents supplied, the amount of the charge should be indicated. Provide the website address and hyperlink for these documents where available. 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.</td>
</tr>
<tr>
<td>10. Proposed date of adoption and of publication</td>
<td>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.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
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</tr>
<tr>
<td>11. Proposed date of entry into force</td>
<td>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. 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.(^\text{10}) 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.</td>
</tr>
<tr>
<td>12. Final date for comments and agency or authority handling comments</td>
<td>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. 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 (if available) E-mail address. 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.</td>
</tr>
<tr>
<td>13. Texts available from</td>
<td>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 (if available) 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. Provide the website address and specific hyperlink of the document notified, if available. 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.</td>
</tr>
</tbody>
</table>

\(^{10}\) Doha Decision on Implementation-Related Issues and Concerns (WT/MIN/(01)/17, para.3.1).


## World Trade Organization

Committee on Sanitary and Phytosanitary Measures  
Original:

### NOTIFICATION

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<tr>
<td>1.</td>
<td>Notifying Member:</td>
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<td></td>
<td>If applicable, name of local government involved:</td>
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<tr>
<td>2.</td>
<td>Agency responsible:</td>
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<tr>
<td>3.</td>
<td>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):</td>
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<tr>
<td>4.</td>
<td>Regions or countries likely to be affected, to the extent relevant or practicable:</td>
<td>[specific regions or countries] or [ ] all trading partners</td>
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<tr>
<td>5.</td>
<td>Title, language and number of pages of the notified document:</td>
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<tr>
<td>6.</td>
<td>Description of content:</td>
<td></td>
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<tr>
<td>7.</td>
<td>Objective and rationale:</td>
<td>[ ] food safety [ ] animal health [ ] plant protection</td>
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<tr>
<td></td>
<td>[ ] protect humans from animal/plant pest or disease</td>
<td></td>
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<td></td>
<td>[ ] protect territory from other damage from pests</td>
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<td>8.</td>
<td>Is there a relevant international standard? If so, identify the standard:</td>
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<td>[ ] Codex Alimentarius Commission</td>
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<td></td>
<td>[(e.g., title or serial number of Codex standard or related text)]</td>
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<td></td>
<td>[ ] World Organization for Animal Health (OIE)</td>
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<td></td>
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<td>[(e.g., Terrestrial or Aquatic Animal Health Code, chapter number)]</td>
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<td></td>
<td>[ ] International Plant Protection Convention</td>
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<td></td>
<td></td>
<td>[(e.g., ISPM N°)]</td>
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<tr>
<td></td>
<td>[ ] None</td>
<td></td>
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<tr>
<td></td>
<td>Does this proposed regulation conform to the relevant international standard?</td>
<td>[ ] Yes   [ ] No</td>
</tr>
<tr>
<td></td>
<td>If no, describe, whenever possible, how and why it deviates from the international standard:</td>
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<td>9.</td>
<td>Other relevant documents and language(s) in which these are available:</td>
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<td>10.</td>
<td>Proposed date of adoption (dd/mm/yy):</td>
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<td></td>
<td>Proposed date of publication (dd/mm/yy):</td>
<td></td>
</tr>
</tbody>
</table>
11. Proposed date of entry into force (dd/mm/yy): [ ] Six months from date of publication
   and/or [DATE: dd/mm/yy]
   [ ] Trade facilitating measure

12. Final date for comments: [ ] Sixty days from the date of circulation of the notification ([DATE])
   or [DATE: dd/mm/yy]
   Agency or authority designated to handle comments: [ ] National Notification Authority, [ ]
   National Enquiry Point, or address, fax number and E-mail address (if available) of other
   body:

13. Texts available from: [ ] National Notification Authority, [ ] National Enquiry Point, or
   address, fax number and E-mail address (if available) of other body:
ANNEX A-2: ROUTINE NOTIFICATIONS - ADDENDA

WORLD TRADE ORGANIZATION

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

date of distribution

Committee on Sanitary and Phytosanitary Measures

Original:

NOTIFICATION

Addendum

The following communication, received on # Month Year, is being circulated at the request of the Delegation of [Member].

_______________

Title outlining what the SPS measure or product is

[Text]

This addendum concerns a:

[ ] Modification of final date for comments
[ ] Notification of adoption, publication, or entry into force of regulation
[ ] Modification of content and/or scope of previously notified draft regulation
[ ] Withdrawal of proposed regulation
[ ] Change in proposed date of adoption, publication, or date of entry into force
[ ] Other [provide brief description]

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.]

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

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

Text available from: [ ] National Notification Authority, [ ] National Enquiry Point, or address, fax number and E-mail address (if available) of other body:
## ANNEX A-3: ROUTINE NOTIFICATIONS - REVISIONS

### WORLD TRADE ORGANIZATION

G/SPS/N/COUNTRY/#/Rev.##

date of distribution

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**Revision**

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<td>Notifying Member:</td>
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<tr>
<td></td>
<td>If applicable, name of local government involved:</td>
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<tr>
<td>2</td>
<td>Agency responsible:</td>
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<td>3</td>
<td>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):</td>
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<td>4</td>
<td>Regions or countries likely to be affected, to the extent relevant or practicable: [specific regions or countries] or [ ] all trading partners</td>
</tr>
<tr>
<td>5</td>
<td>Title, language and number of pages of the notified document:</td>
</tr>
<tr>
<td>6</td>
<td>Description of content:</td>
</tr>
<tr>
<td>7</td>
<td>Objective and rationale: [ ] food safety [ ] animal health [ ] plant protection [ ] protect humans from animal/plant pest or disease [ ] protect territory from other damage from pests</td>
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<td>Is there a relevant international standard? If so, identify the standard:</td>
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<td></td>
<td>[ ] None</td>
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<tr>
<td></td>
<td>Does this proposed regulation conform to the relevant international standard? [ ] Yes [ ] No</td>
</tr>
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<td></td>
<td>If no, describe, whenever possible, how and why it deviates from the international standard:</td>
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<tr>
<td>9</td>
<td>Other relevant documents and language(s) in which these are available:</td>
</tr>
</tbody>
</table>
10. **Proposed date of adoption (dd/mm/yy):**
    
    **Proposed date of publication (dd/mm/yy):**

11. **Proposed date of entry into force (dd/mm/yy):**
    - [ ] Six months from date of publication
    - [ ] Trade facilitating measure
    - [ ] [DATE: dd/mm/yy]

12. **Final date for comments:**
    - [ ] Sixty days from the date of circulation of the notification ([DATE])
    - or [DATE: dd/mm/yy]

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

13. **Texts available from:**
    - [ ] National Notification Authority,
    - [ ] National Enquiry Point,
    - or address, fax number and E-mail address (if available) of other body:
ANNEX A-4: ROUTINE NOTIFICATIONS - CORRIGENDA

WORLD TRADE ORGANIZATION

<table>
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<tr>
<th>Committee on Sanitary and Phytosanitary Measures</th>
<th>Original:</th>
</tr>
</thead>
</table>

NOTIFICATION

Corrigendum

The following communication, received on # Month Year, is being circulated at the request of the Delegation of [Member].

Title outlining what the SPS measure or product is

[Text]

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

<table>
<thead>
<tr>
<th>Item</th>
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<tbody>
<tr>
<td>1. Member notifying</td>
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<tr>
<td>2. Agency responsible</td>
<td>Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.</td>
</tr>
<tr>
<td>3. Products covered</td>
<td>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.</td>
</tr>
<tr>
<td>4. Regions or countries likely to be affected</td>
<td>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.</td>
</tr>
<tr>
<td>5. Title, language and number of pages of the notified document</td>
<td>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.</td>
</tr>
<tr>
<td>6. Description of content</td>
<td>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.</td>
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<tr>
<td>Item</td>
<td>Description</td>
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</tr>
<tr>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>7.</td>
<td>Objective and rationale</td>
</tr>
<tr>
<td>8.</td>
<td>Nature of urgent problem(s) and reason for urgent action</td>
</tr>
</tbody>
</table>
| 9.  | Existence of international standard, guideline or recommendation | 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. 
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 | Documents referenced here are different from those listed in box 5. Documents which should be referenced include: (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; (b) Publication in which regulation will appear. If it is necessary to charge for documents supplied, the amount of the charge should be indicated. Provide the website address and hyperlink for these documents where available. 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>
<table>
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<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. Date of entry into force and period of application</td>
<td>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.) Put a cross in the box if the proposed measure contributes to the liberalization of trade.</td>
</tr>
<tr>
<td>12. Agency or authority handling comments</td>
<td>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 (if available) E-mail address.</td>
</tr>
<tr>
<td>13. Texts available from</td>
<td>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 (if available) 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. Provide the website address and specific hyperlink of the document notified, if available. 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.</td>
</tr>
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**NOTIFICATION OF EMERGENCY MEASURES**

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| 1. | Notifying Member:  
If applicable, name of local government involved: |
| 2. | Agency responsible: |
| 3. | 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): |
| 4. | Regions or countries likely to be affected, to the extent relevant or practicable:  
[specific regions or countries] or [ ] all trading partners |
| 5. | Title, language and number of pages of the notified document: |
| 6. | Description of content: |
| 7. | Objective and rationale:  
[ ] food safety  
[ ] animal health  
[ ] plant protection  
[ ] protect humans from animal/plant pest or disease  
[ ] protect territory from other damage from pests |
| 8. | Nature of the urgent problem(s) and reason for urgent action: |
| 9. | Is there a relevant international standard? If so, identify the standard:  
[ ] Codex Alimentarius Commission  
[(e.g., title or serial number of Codex standard or related text)]  
[ ] World Organization for Animal Health (OIE)  
[(e.g., Terrestrial or Aquatic Animal Health Code, chapter number)]  
[ ] International Plant Protection Convention  
[(e.g., ISPM N°)]  
[ ] None  
Does this proposed regulation conform to the relevant international standard?  
[ ] Yes  
[ ] No  
If no, describe, whenever possible, how and why it deviates from the international standard: |
| 10. | Other relevant documents and language(s) in which these are available: |
| 11. | Date of entry into force (dd/mm/yy)/period of application (as applicable):  
[ ] Trade facilitating measure |
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<th>Agency or authority designated to handle comments: [ ] National Notification Authority, [ ] National Enquiry Point, or address, fax number and E-mail address (if available) of other body:</th>
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ANNEX B-2: EMERGENCY NOTIFICATIONS - ADDENDA

WORLD TRADE ORGANIZATION

G/SPS/N/COUNTRY/#/Add.#
(date of distribution)

Committee on Sanitary and Phytosanitary Measures

Original:

NOTIFICATION OF EMERGENCY MEASURES

Addendum

The following communication, received on # Month Year, is being circulated at the request of the Delegation of [Member].

Title outlining what the SPS measure or product is

[Text]

This addendum concerns a:

[ ] Modification of final date for comments
[ ] Modification of content and/or scope of previously notified draft regulation
[ ] Withdrawal of proposed regulation
[ ] Change in period of application of measure
[ ] Other [provide brief description]

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

Text available from: [ ] National Notification Authority, [ ] National Enquiry Point, or address, fax number and E-mail address (if available) of other body:
ANNEX B-3: EMERGENCY NOTIFICATIONS – REVISIONS

WORLD TRADE ORGANIZATION

Committee on Sanitary and Phytosanitary Measures

NOTIFICATION OF EMERGENCY MEASURES

Revision

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<td>4.</td>
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<td>Title, language and number of pages of the notified document:</td>
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<td>Description of content:</td>
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<td>7.</td>
<td>Objective and rationale: [ ] food safety [ ] animal health [ ] plant protection [ ] protect humans from animal/plant pest or disease [ ] protect territory from other damage from pests</td>
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<td>9.</td>
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<td>[ ] Codex Alimentarius Commission</td>
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<td>([e.g., ISPM number])</td>
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<td></td>
<td>[ ] None</td>
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<td></td>
<td>Does this proposed regulation conform to the relevant international standard? [ ] Yes [ ] No</td>
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<td>If no, describe, whenever possible how and why it deviates from the international standard:</td>
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<td>10.</td>
<td>Other relevant documents and language(s) in which these are available:</td>
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<td>11.</td>
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<td>[ ] Trade facilitating measure</td>
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<td>12.</td>
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<td>13.</td>
<td>Texts available from: [ ] National Notification Authority, [ ] National Enquiry Point, or address, fax number and E-mail address (if available) of other body:</td>
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ANNEX B-4: EMERGENCY NOTIFICATIONS – CORRIGENDA

WORLD TRADE ORGANIZATION

G/SPS/N/COUNTRY/#/Corr.#

(date of distribution)

Committee on Sanitary and Phytosanitary Measures  

Original:

NOTIFICATION OF EMERGENCY MEASURES

Corrigendum

The following communication, received on # Month Year, is being circulated at the request of the Delegation of [Member].

Title outlining what the SPS measure or product is

[Text]

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

Committee on Sanitary and Phytosanitary Measures

AVAILABILITY OF TRANSLATIONS

Supplement

The Secretariat has been informed that an unofficial translation into [one of the WTO working languages or another language] of the document referenced in this notification is available for consultation at:

http://www. ...........................................

Comité des mesures sanitaires et phytosanitaires

TRADUCTIONS DISPONIBLES

Supplément

Le Secrétariat a été informé qu'une traduction non officielle en [l'une des langues de travail de l'OMC ou une autre langue] du document auquel renvoie la présente notification pouvait être consultée à l'adresse suivante:

http://www. ...........................................

Comité de Medidas Sanitarias y Fitosanitarias

ACCESO A TRADUCCIONES

Suplemento

Se ha comunicado a la Secretaría que en la dirección:

http://www. ...........................................

se puede consultar una traducción no oficial al [uno de los idiomas de trabajo de la OMC u otro 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), 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.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
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<tbody>
<tr>
<td>1.</td>
<td>Member notifying</td>
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<td>2.</td>
<td>Title of the text stating determination of the recognition of equivalence</td>
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<tr>
<td>3.</td>
<td>Parties involved</td>
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<td>4.</td>
<td>Date of entry into force of the determination of the recognition of equivalence and any associated procedures or regulations</td>
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<tr>
<td>5.</td>
<td>Products covered (HS or CCCN where applicable, otherwise national tariff heading)</td>
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<tr>
<td>6.</td>
<td>Brief description of the measure(s) recognized to be equivalent</td>
</tr>
<tr>
<td>7.</td>
<td>Further information available from:</td>
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</table>
**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.

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<tr>
<td>5.</td>
<td>Products covered (HS or CCCN where applicable, otherwise national tariff heading):</td>
</tr>
<tr>
<td>6.</td>
<td>Description of measures recognized to be equivalent:</td>
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<tr>
<td>7.</td>
<td>Further information available from:</td>
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[ ] National Enquiry Point [ ] Other (specify)
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

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;2

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;

---

1 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.

2 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.3

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.4

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.5 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.

3 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). These texts also provide information regarding the availability of SPS notifications, including through the SPS Information Management System (http://spsims.wto.org).

4 Ibid.

5 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.
The following communication, received on DD/MM/YY, is being circulated at the request of the Delegation of [Member].

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:
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:


   1.1 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.


8.1 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") \(^1\) should be generalised, non-reciprocal and non-discriminatory.

13. **Outstanding Implementation Issues** \(^2\)

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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\(^1\) BISD 26S/203.

\(^2\) A list of these issues is compiled in document Job(01)/152/Rev.1.
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.”

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.”

1 WT/L/579.
2 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. 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 fulfill 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, 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 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.

3 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.

4 See, inter alia, Article 3.3
Agreement remains relatively low, and that academic and institutional responses are also nascent. 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.

7. At the same time, it is apparent from the studies undertaken by the World Bank 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.

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5 "Food Safety and Agricultural Health Standards: Challenges and Opportunities for Developing Country Exports", World Bank Report No. 31207, 10 January 2005.
6 G/SPS/W/173/Rev.2, paragraphs 26 and 27.
7 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."[^8]

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".[^9]

[^8]: TN/CTD/W/2.
[^9]: 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.\(^{10}\)

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.\(^ {11}\)

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.\(^ {12}\)

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."\(^ {13}\)

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.\(^ {14}\)

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.\(^ {15}\)

\(^{10}\) Ibid.
\(^{11}\) Ibid.
\(^{12}\) Ibid.
\(^{13}\) TN/CTD/W/2.
\(^{14}\) TN/CTD/W/3/Rev.2.
\(^{15}\) 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.16

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.17

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.18

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 Agreement19, 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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16 Ibid.
17 Ibid.
18 TN/CTD/W/6.
19 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. 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.

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), 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

20 WT/MIN(01)/17, paragraph 3.1.
21 The report of this review, the second since the entry into force of the Agreement, is contained in document G/SPS/36.
22 See proposals in paras. 17(b) and 19 above.
upper middle income countries. 23 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. 24

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. 25 Similar diagnostic tools have been developed by the FAO/WHO with respect to food safety, and recently by OIE. 26 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. 27 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", 28 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. 29 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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23 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/
24 G/SPS/GEN/482.
26 See G/SPS/GEN/525; also "Performance, Vision and Strategy (PVS) for National Veterinary Services", available from http://www.oie.int.
27 These training activities are described in more detail in document G/SPS/GEN/521.
28 WTO Agreements Series, Volume No. 4
29 The Secretariat reports regularly to the SPS Committee on the STDF, most recently in G/SPS/GEN/523.
including those related to dispute resolution.\textsuperscript{30} 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.\textsuperscript{31}

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.\textsuperscript{32} Furthermore, bilateral technical assistance related to SPS capacity is being provided by many Members.\textsuperscript{33}

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).\textsuperscript{34}

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.\textsuperscript{35} 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.\textsuperscript{36} In
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. 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. 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.

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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37 G/SPS/GEN/204/Rev.5.
38 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.
39 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.

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.
I. INTRODUCTION

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.\(^1\)

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.\(^2\) At its October 2008 meeting, the Committee adopted a procedure and timetable to undertake the Third Review of the Agreement.\(^3\)

3. Members were invited to identify issues for discussion as part of the Third Review and any other issues they wished to have considered during the Review, by 28 November 2008. Members were also invited to: (i) submit papers on the issues proposed for consideration and to identify any further issues for consideration during the Review, by 9 February 2009; and (ii) submit any further papers on issues proposed for consideration, by 27 March 2009. Since October 2008, the Committee has held four informal meetings and four formal meetings at which it considered issues and proposals identified by Members. The draft report of the Review\(^4\) was discussed at the June 2009 meetings of the Committee, and Members were invited to submit written comments on the draft report by 27 July 2009.

4. In accordance with the procedures for the Third Review, the Committee considered, for adoption at its October 2009 meeting, a draft report of the Review\(^5\). The report was not adopted, however, and Members were invited to submit written comments on the draft report, and on the proposed changes to the draft report contained in the 28 October Room Document, by 16 December 2009. The Secretariat circulated a revised draft report of the Review based on Members comments and suggestions (G/SPS/W/237/Rev.2) for consideration by the Committee. At its March 2010 regular meeting, the SPS Committee adopted, on an \textit{ad referendum} basis, the report on the Third Review of the Operation and Implementation of the SPS Agreement. No objections to the adoption of the report as agreed at the March meeting 2010 meeting were received by the deadline of 15 April 2010.

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\(^1\) G/SPS/12.
\(^2\) G/SPS/36.
\(^3\) G/SPS/W/228.
\(^4\) G/SPS/W/237.
\(^5\) G/SPS/W/237/Rev.1.
5. As in the two previous Reviews, the Committee discussions in the Third Review have focused on operation and implementation issues related to:

- Consistency (Article 5.5);
- Equivalence (Article 4);
- Transparency (Article 7 and Annex B);
- Monitoring the use of international standards (Article 3.5 and 12.4);
- Technical assistance and training activities (Article 9);
- Special and differential treatment (Article 10);
- Regionalization (Article 6);
- Monitoring the implementation of the Agreement (Articles 12.1 and 12.2) – Specific trade concerns / Use of ad hoc consultations;
- Cooperation with Codex Alimentarius, World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPC) (Article 12.3); and
- Dispute settlement activities (Article 11).

6. In addition, in this Third Review the Committee also considered:

- Implementation of the Agreement – Article 13;
- Private voluntary standards;
- Good regulatory practice; and
- Control, Inspection and Approval Procedures (Article 8 and Annex C).

7. Appendix A of this document provides a summary of Committee activities since the Second Review in 2005. Appendix B provides information about SPS-related dispute settlement activities. Appendix C provides a list of documents submitted by Members since the Second Review of the Agreement relevant to the various issues raised in this report.

II. CONSISTENCY (ARTICLE 5.5)

8. Efforts and deliberations by the Committee to develop guidelines for consistency began during the Committee's first meeting in March 1995 and progressed through informal and formal meetings. During these discussions, Members raised conceptual issues related to the links between appropriate level of protection, measures and risk assessment.

9. In the Second Review of the Agreement in 2005 ("the 2005 Review"), the Committee noted that it should undertake another review of the operation of the guidelines to further the practical implementation of Article 5.5 whenever Members identified the need, and in any case not later than December 2008. Members were encouraged to provide information regarding their experiences in the implementation of Article 5.5 and in the use of the guidelines.6

10. 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

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6 G/SPS/15.
regarding their experiences in this regard under the Agenda Item "Activities of Members". No Member has provided any such information since June 2005.

11. Some Members have suggested, however, that the Committee should solicit information from Members in order to determine the extent to which these guidelines, as well as others adopted by the Committee, are actually being implemented by Members.

12. Australia suggested that Members submit any issue of concern they might have on the Article 5.5 Guidelines by the June 2009 meeting of the Committee. Should no specific issue be raised by June, it was proposed that the Committee consider the current guidelines on consistency as having been reviewed and maintain the guidelines as such.

13. In its proposal on issues for consideration in the Third Review, India (i) noted the need to review the progress achieved in this issue through the use of the Committee's guidelines (G/SPS/15), and (ii) asked that the Committee analyze some SPS measures of key trading Members which have a major effect on other countries' exports and assess to what extent they were "arbitrary or unjustifiable".

14. **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).

- The Committee should agree to review the guidelines in G/SPS/15 as part of the periodic review of the operation and implementation of the SPS Agreement, unless any Member requests a specific review of these guidelines in the intervening period, based on specific proposed amendments to the existing guidelines.

**III. EQUIVALENCE (ARTICLE 4)**

15. In the 2005 Review, the Committee encouraged Members to provide information regarding their experiences in the implementation of Article 4 and in the use of the guidance developed by the Committee. In particular, Members were encouraged to notify any agreements reached on the recognition of equivalence. Finally, the relevant international organizations were invited to keep the Committee informed of any work they undertook with regard to the recognition of equivalence.

16. Equivalence is a standing agenda item for regular meetings of the Committee. At each meeting, Members are invited to report on their experiences regarding equivalence, and the relevant international organizations are invited to provide information. The following Members provided information under this agenda item: Brazil and Chile (June 2005), Egypt (March 2006) and the United States (June 2007). On 9 August 2007, Panama submitted the first notification on a recognition of equivalence (G/SPS/N/EQV/PAN/1). A second notification of the recognition of equivalence of SPS measures was submitted to the Committee in 2008 by the Dominican Republic (G/SPS/N/EQV/DOM/1).

17. The Secretariat noted that Members' officials often made reference informally to various equivalence agreements with trading partners, but these had not been notified to the SPS Committee. Some Members agreed that equivalence agreements did exist, and that the guidance developed by the Committee was being used. They suggested that one reason Members did not notify these agreements was to avoid other exporters benefiting from the arrangements. Furthermore, in many cases the notion of equivalence was applied without any formal recognition of equivalence *per se*, or without

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7 G/SPS/W/236/Rev.1.
8 G/SPS/19/Rev.2.
calling the bilateral arrangements "equivalence". They agreed, however, that it would be useful for Members to provide information regarding their experiences in this area.

18. The international standard-setting organizations have developed guidance in this area, and the Codex, IPPC and OIE have regularly provided information on equivalence issues at meetings of the Committee. The Codex Alimentarius Commission has adopted Principles for the development of equivalence agreements regarding food import and export inspection and certification systems, and Guidelines on the judgement of equivalence of such systems. The OIE has developed guidelines for reaching a judgement of the equivalence of sanitary measures. At the October 2008 meeting of the Committee, the OIE elaborated on a new approach whereby two ad hoc groups were analyzing various chapters in the terrestrial and aquatic animal health codes, and noted that it would keep the Committee informed of the work of those ad hoc groups. The IPPC adopted in 2005 a standard with guidelines for determination and recognition of equivalence of phytosanitary measures (ISPM 24). In addition, ISPM 1, which also includes principles on equivalence, was revised in 2006.

19. In its proposal for the Third Review, India proposed that: (i) the Committee prepare a country-specific status report, listing the cases where Members had successfully negotiated bilateral equivalence agreements; (ii) Members be encouraged to share their experiences in and difficulties with implementing Article 4.2; and (iii) even if a Member did not enter into any equivalence arrangements, it could be required to make a statement to that effect.

20. **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.

IV. TRANSPARENCY (ARTICLE 7 AND ANNEX B)

21. In the 2005 Review, the Committee: (i) encouraged Members to ensure full implementation of the transparency provisions of the SPS Agreement; (ii) asked that developing country Members clearly identify specific problems faced in implementing the transparency provisions of the Agreement; and (iii) asked that assistance be provided to least-developed and developing country Members 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, while not creating legal obligations, could facilitate Members' implementation of the provisions of the SPS Agreement, the Committee agreed to consider whether further recommendations could be beneficial.

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11 https://www.ippc.int/index.php?id=ispms&tx_publication_pi1[showUid]=133583&frompage=13399&type=publication&subtype=&L=0#item.
12 G/SPS/W/236/Rev.1.
13 G/SPS/7/Rev.2.
22. The Secretariat organized a Workshop on Transparency in October 2007. This was the third SPS workshop on transparency organized by the WTO Secretariat, the first two having been held in 1999 and 2003. Various funding arrangements made it possible for a large number of participants from least-developed and developing countries to attend. The objectives of the workshop were to enhance the implementation of transparency obligations and to identify best practices for drawing benefits from a transparent system.

23. The main recommendations from the Workshop involved the following six issues: revision of the Recommended Transparency Procedures contained in G/SPS/7/Rev.2; training and dissemination on the SPS Information Management System (SPS IMS) as well as other sources of SPS-related information; regular updates on the level of implementation of transparency provisions; explanatory documents on timeframes related to transparency obligations and on benefits of the SPS Agreement; establishment of a mentoring mechanism between officials responsible for implementing the transparency provisions in different Members; and development of a practical procedural manual. Significant progress has been made with respect to all six recommendations.

24. On 30 May 2008, the Committee adopted revised recommended procedures for transparency. The new procedures, inter alia, clarify the definition of the comment period, encourage the notification of measures conforming to international standards, and provide links for access to full texts of regulations and their translations. The new transparency procedures, including new notification formats, took effect on 1 December 2008. These new formats provide the possibility for Members to include hyperlinks to texts of draft regulations or to submit these draft regulations to the Secretariat in PDF format so that they can be placed on a server and a hyperlink included.

25. To facilitate Members' management of the large volume of SPS-related information, the Secretariat regularly produces summary documents containing relevant SPS-related information, including monthly summaries of notifications received by the Secretariat and an annual listing of all SPS documents. Links to these documents can be found on the SPS web page.

26. 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.

27. The Secretariat has also developed the new SPS Information Management System (SPS IMS), the public version of which was launched and presented on 15 October 2007 during the Transparency Workshop. The system includes the most recent information on SPS notifications as well as Committee documents and specific trade concerns. It 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. The website of the SPS IMS is constantly updated with the latest contact details on Members' Enquiry Points and National Notification Authorities.

28. The WTO Secretariat has provided demonstration sessions on the SPS IMS during the SPS Committee meetings and during its technical assistance programmes. It has also responded to ad hoc requests from Members and other interested parties for assistance.

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14 G/SPS/7/Rev.3.
15 See, for example, documents G/SPS/GEN/977, 986 and 990 for October to December 2009.
16 G/SPS/GEN/991 for 2009.
17 [http://spsims.wto.org](http://spsims.wto.org)/
29. The Secretariat has begun to provide annual updates on the level of implementation of the transparency provisions. In October 2007, the Secretariat circulated a first background note providing an overview regarding the level of implementation of the transparency provisions of the SPS Agreement. An updated version of this note was circulated as G/SPS/GEN/804/Rev.1 in October 2008, and a second revision was circulated in October 2009. The development and updating of the SPS IMS facilitate the compilation and analysis of data related to the implementation of the transparency provisions, as well as specific searches by Members and the preparation of summary reports. Furthermore, Members' implementation of the new recommendations on transparency should result in substantially enhanced information.

30. Managing information on transparency, however, remains challenging for many developing country Members, and many have flagged their need for assistance and support to resolve 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.

31. As recommended in the 2007 Workshop on Transparency, the Secretariat developed a procedure for an informal mentoring mechanism to assist officials responsible for transparency in developing country Members. Nineteen Members have been "matched" with mentors in other Member countries that should provide guidance when requested.

32. In addition, New Zealand worked with the Secretariat, along with contributions from Australia and a number of other Members, to develop a step-by-step procedural manual for the operation of Enquiry Points and National Notification Authorities. The document is available for Members in English, French and Spanish. A PDF version of the document can be downloaded from the SPS gateway of the WTO website (under the "transparency toolkit" section). This Transparency Manual reflects the new transparency procedures and replaces the 2002 handbook on "How to Apply the Transparency Provisions of the SPS Agreement".

33. In line with the Committee's previous decision to normally hold a special meeting on transparency every three years, back-to-back with a regular Committee meeting, a special meeting on transparency will be held on 18 October 2010. National Notification Authorities and Enquiry Points are encouraged to attend.

34. As of 31 December 2009, Members have submitted 7,315 regular notifications and 1,163 emergency notifications (not including related addenda and corrigenda). The Committee has also adopted a special format and recommended procedures for the notification of determination of the recognition of equivalence of sanitary or phytosanitary measures, now included in the new transparency procedures. As of 31 December 2009, two equivalence and 14 supplemental notifications have been circulated.

35. Out of the 153 WTO Members, 101 (66 per cent) have to date submitted at least one notification to the WTO. This figure stood at 98 in October 2008, meaning that three additional Members (Former Yugoslav Republic of Macedonia, Swaziland, and Ukraine) have submitted at least one notification during the past year. Members which have not submitted any notification so far include 20 developing countries and 23 LDCs, as well as a number of EC member States.

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18 G/SPS/GEN/804.
19 G/SPS/W/217.
20 See G/SPS/GEN/456 for notification procedures for the European Communities and its member States.
36. As can be seen in Figure 1, the share of notifications submitted by developed country Members reaches 53 per cent while the share of those submitted by developing country Members (excluding LDCs) is 46.6 per cent.\textsuperscript{21} A very small share comes from LDCs. Still, there has been a steady increase in notifications from developing country Members over the years.

![Development Status of Notifying Members as of 31 December 2009]

37. Looking at the geographic regions from which the notifications originate, Figure 2 shows that the majority of notifications come from North America, followed by Asia, and then South and Central America and the Caribbean.\textsuperscript{22}

\textsuperscript{21} The categories of level of development rely on WTO working definitions as identified in the Integrated Database (IDB) for analytical purposes.

\textsuperscript{22} 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 Figure 2, includes Canada, Mexico and the United States.
38. 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 153 WTO Members, 137 Members have, as of February 2010, designated a "Notification Authority". Those which have not yet done so include 8 LDCs and 7 developing country Members. As of February 2010, of the 153 WTO Members, 146 have provided the WTO with the contact information of their Enquiry Point. Those which have not yet done so include six LDCs and one developing country.23

39. The Secretariat regularly updates documents containing the contact information of National Enquiry Points and of National Notification Authorities. In addition, regularly updated lists are available from the SPS IMS and from the SPS gateway on the WTO web page. Members should ensure that updated contact information is provided to the Secretariat so that it can be reflected in the SPS IMS.

40. In 2005, the Committee agreed to extend the Procedure to Enhance the Transparency of Special and Differential Treatment adopted in October 200424, and Members were invited to share with the Committee their experiences under this procedure. See Section VIII for more details.

41. During this Third Review, Egypt suggested that the Committee examine ways to ensure the effective functioning of the National Notification Authority and Enquiry Points of least-developed and developing country Members. Egypt also suggested that the Committee establish a mechanism for sharing comments submitted by Members in response to SPS notifications.

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23 Enquiry Point contact information is contained in G/SPS/ENQ/25, and National Notification Authority contact information is contained in G/SPS/NNA/15. This most update information is available from the SPS Information Management System at http://spsims.wto.org.

24 G/SPS/33 and G/SPS/33/Add.1.
42. **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.
- The Committee should continue to explore means to enhance the implementation of the transparency provisions, and the benefits from this transparency, by least-developed and developing country Members.

V. **MONITORING THE USE OF INTERNATIONAL STANDARDS (ARTICLES 3.5 AND 12.4)**

43. In the 2005 Review, the Committee noted that it should continue to monitor the use of international standards at each of its regular meetings. 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\(^\text{25}\), the Committee has produced annual reports relating to the process of monitoring international harmonization.\(^\text{26}\)

44. In 2006, the Committee reviewed the operation of the provisional procedure based on a document prepared by the Secretariat.\(^\text{27}\) The Committee decided to extend the provisional procedure indefinitely. The Committee also decided to 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 Committee furthermore encouraged Members to make use of this procedure to address their concerns regarding specific international standards or the need for such standards.\(^\text{28}\) The procedure has not been used extensively by Members.

45. The standard-setting bodies have promptly addressed the concerns raised by Members through this procedure in their respective competent bodies and regularly reported on their actions to the SPS Committee. To enhance the participation of developing country Members in standard-setting meetings and activities, training programmes and regional technical consultations on standards and their implementation, the Codex, IPPC and OIE have established trust funds. The OIE also continues to provide financial support for the participation of Chief Veterinary Officers of its member countries in OIE standard-setting activities.

46. In 2008, the Committee agreed to consider the monitoring procedure in light of the information gained from notifications under the new notification procedure and the implementation of the IPPC mechanism. Chile noted that if Members follow the new Transparency Recommendations and notify also when they impose measures based on the international standards, this could provide

\(^{25}\) G/SPS/11/Rev.1.  
\(^{27}\) G/SPS/W/200.  
\(^{28}\) G/SPS/40.
useful data and that the Committee may wish to revise the monitoring procedure in light of that development. Members were also encouraged to provide information on obstacles they encountered when exporting, not just on national measures applied to imports. Egypt noted that International Standard-Setting Organizations should continue enhancing the participation of developing country Members in their relevant activities and report back to the Committee as appropriate.

47. In its proposal on issues to be considered during the Third Review, India suggested that the Secretariat prepare: (i) a Member-specific compilation listing the various measures notified by each Member and assess how many of these were based on international standards, and (ii) a consolidated analytical compilation of all notifications relating to SPS measures over the two-year period from 1 August 2007 to 31 July 2009.

48. India also proposed that, in relation to Articles 3.5 and 12.4 of the Agreement, the Committee review: (i) the progress achieved through the use of its recommended monitoring procedure, and (ii) the monitoring procedure, including the introduction of timelines for the resolution of specific concerns raised by Members.

49. **Recommendations:**

- The Committee should continue to monitor the use of international standards at each of its regular meetings and should consider revising the procedure to monitor the use of international standards (G/SPS/11/Rev.1) to more closely correspond to the provisions of Article 12.4.

- 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.

VI. TECHNICAL ASSISTANCE (ARTICLE 9)

50. In the 2005 Review, the Committee encouraged Members requiring technical assistance to identify their specific needs in a clear and detailed manner to permit those needs to be effectively addressed. The Committee also encouraged Members providing technical assistance to keep it informed of specific programmes of assistance. Members were encouraged to report on the effectiveness of the technical assistance received, and, on the basis of that information, and information on the experiences of Members in the provision of technical assistance, the Committee would consider identifying best practices in the area of SPS-related technical assistance. The Committee invited Members 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. Finally, the Committee requested the Secretariat to keep it informed of its relevant technical assistance activities and of the activities of the Standards and Trade Development Facility (STDF), and invited observer organizations to report on their capacity building activities relevant to the SPS Agreement.

51. 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. The WTO Secretariat, as well as observer organizations, report on their assistance activities.

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29 G/SPS/W/236/Rev.1.
52. WTO's technical assistance activities in the SPS area contribute towards the strengthening of the capacities of developing country Members in meeting standards for market access of food and other agricultural commodities. The activities 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 or regional needs. The programmes of national and 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 standard-setting organizations referenced in the SPS Agreement (Codex, IPPC and OIE).

53. 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 published under the WTO Agreements Series (Volume No. 4). The Secretariat has also printed the step-by-step Procedural Manual on the application of the recently revised transparency procedures. A CD-ROM explaining and discussing in detail the provisions of the Agreement, and dealing in particular with implementation, transparency, special and differential treatment and dispute settlement issues, has been produced by the Secretariat. The CD-ROM includes text, video and audio material and is complemented by multiple-choice tests to enable users to monitor their individual progress. In order to meet Members requests for a more advanced training activity on the implementation of the SPS Agreement, a three-week Specialized Course on SPS has been developed and is offered once each year. The Secretariat also offers a distance-learning course on the SPS Agreement.

54. In the context of the discussions on special and differential treatment and actions to address the underlying concerns of developing country Members, in October 2006 the Secretariat prepared a preliminary analysis of SPS-related technical assistance, with a view to addressing issues regarding the effectiveness of assistance provided. The Committee agreed to continue to consider the issue, and to explore the possibility of identifying best practices in the area of SPS-related technical assistance.

55. Under the Third Review, Egypt has suggested that the Committee examine possible ways to fund the participation of National Notification Authorities and/or Enquiry Points from least-developed and developing country Members, to meetings of the Committee. Egypt also noted that regional organizations could play a role in that process.

56. The Secretariat has compiled document G/SPS/GEN/521/Rev.5, which contains an updated overview of all SPS-related technical assistance activities provided by the WTO Secretariat from September 1994 through December 2009.

57. For the period 1994-2009, the WTO Secretariat has undertaken a total of 198 technical assistance activities on the SPS Agreement, including 70 regional (or sub-regional) and 85 national workshops. 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 2005. Table 2 shows the overall number of activities per region since 1994.

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30 G/SPS/GEN/726.
Table 1 - Number of SPS Technical Assistance Activities

<table>
<thead>
<tr>
<th>Year</th>
<th>National Seminar</th>
<th>(Sub)Regional Workshop</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td>4</td>
<td>7</td>
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<td>2006</td>
<td>9</td>
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<td>4</td>
<td>2</td>
<td>13</td>
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<tr>
<td>2008</td>
<td>12</td>
<td>2</td>
<td>4</td>
<td>18</td>
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<tr>
<td>2009</td>
<td>13</td>
<td>5</td>
<td>2</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>45</strong></td>
<td><strong>21</strong></td>
<td><strong>13</strong></td>
<td><strong>79</strong></td>
</tr>
</tbody>
</table>

Table 2 - SPS Technical Assistance Activities per Region (1994-2009)

<table>
<thead>
<tr>
<th>Region</th>
<th>National Seminar</th>
<th>(Sub)Regional Workshop</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Africa</td>
<td>25</td>
<td>24</td>
<td>10</td>
<td>59</td>
</tr>
<tr>
<td>Arab and Middle East Countries</td>
<td>14</td>
<td>6</td>
<td>1</td>
<td>21</td>
</tr>
<tr>
<td>Asia and the Pacific</td>
<td>21</td>
<td>13</td>
<td>14</td>
<td>48</td>
</tr>
<tr>
<td>Central and Eastern Europe and Central Asia</td>
<td>7</td>
<td>5</td>
<td>-</td>
<td>12</td>
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<td>Europe</td>
<td>1</td>
<td>3</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>Latin America and the Caribbean</td>
<td>17</td>
<td>19</td>
<td>5</td>
<td>41</td>
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<tr>
<td>North America</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Global</td>
<td>-</td>
<td>-</td>
<td>5(^{31})</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>85</strong></td>
<td><strong>70</strong></td>
<td><strong>38</strong></td>
<td><strong>198</strong></td>
</tr>
</tbody>
</table>

58. The STDF was established in September 2002 following the commitment made by the Heads of the WHO, the FAO, the WTO, the OIE 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.\(^32\) The STDF has two main aims: (i) to assist developing countries enhance their expertise and capacity to analyze and to implement international SPS standards, improve their human, animal and plant health situation, and thus their ability to gain and maintain market access; and (ii) to act as a vehicle for awareness raising on the importance of SPS issues, coordination among technical assistance providers, the mobilization of funds, the exchange of experience and the dissemination of

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\(^31\) SPS Specialized Courses.

\(^32\) More information on the STDF can be obtained on the website: [http://www.standardsfacility.org](http://www.standardsfacility.org).
good practice in relation to the provision and receipt of SPS-related technical assistance. Secretariat documents give regular overviews and updates of STDF activities, including funding offered for projects and project preparation grants in developing countries.33

59. As part of its co-ordination function, the STDF has organized a number of events that provided information and assistance to all Members. In November 2007, the STDF organized, jointly with the World Bank and the United Nations Industrial Development Organization (UNIDO), a workshop to examine issues related to investment in laboratory infrastructure in developing countries which provide services for food safety and agricultural health.34 In March 2008, the STDF held a workshop on Capacity Evaluation Tools used in the SPS area.35 A publication providing information on the scope and use of twelve Tools developed by international organizations is available on the STDF website.

60. In June 2008, the STDF organized an information session on private standards. The session focussed on developments in the area of private standards since the June 2007 information session, and drew conclusions with regard to SPS-related technical assistance.36 Finally, in October 2008, the STDF organized a special workshop on Good Practice in SPS-related Technical Cooperation, in collaboration with the Organization for Economic Cooperation and Development (OECD). More than 200 delegates participated in the workshop, some with assistance from the WTO Global Trust Fund or the STDF. The workshop presented the results of research on good practice in SPS-related projects identified by Members as having been successful, and considered how to apply the Paris Principles on Aid Effectiveness in this area.37

61. In November 2008, the STDF presented a desk study on SPS needs and assistance provided to eight LDCs at the LDC Ministerial Conference on Aid for Trade in Cambodia. The study identified areas where future SPS technical cooperation activities with a positive trade effect might be focused.38 In the near future, similar SPS briefings may be envisaged for other countries. The STDF also prepared a background paper for the "Open-Ended Working Group for the Development of an IPPC Capacity Building Strategy" held in Rome in December 2008.39 The report identified current flows of phytosanitary technical cooperation, examined how phytosanitary needs are evaluated and discussed how these could be mainstreamed into national development plans.

62. In the first half of 2009, the STDF developed a 30 minute film entitled "Trading safely: Protecting health, promoting development". The purpose of the film, which was screened in the SPS Committee meeting in June 2009, is to raise awareness among policy and decision-makers about the importance of SPS issues and to promote SPS capacity building. With stories from Benin, Belize, Thailand and Viet Nam, the film illustrates how some countries are rising to the challenge of meeting food safety and animal and plant health requirements to be able to benefit from trade in food and agricultural products. The film is available on a trilingual DVD in English, French and Spanish and can also be downloaded from the STDF website.

63. Three STDF events took place in the second half of 2009. On 22-23 September, a joint STDF/World Bank workshop was held in Washington D.C. to discuss new developments in climate change and trade, and the implications for SPS risks. The event addressed key issues related to climate change, including effects on agriculture trade and the regulatory reforms needed to adapt to

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33 G/SPS/GEN/595, 648, 718, 748, 774, 847, 865, 877, 902 and 939.
34 G/SPS/GEN/823.
35 G/SPS/GEN/826.
36 G/SPS/R/50.
37 G/SPS/GEN/875 and G/SPS/R/52.
38 G/SPS/GEN/900.
39 G/SPS/GEN/898.
these changes, as well as the expected SPS impacts. Presentations highlighted how climate change may require countries to upgrade their SPS systems in order to deal with emerging challenges, and the implications for SPS technical cooperation and assistance.

64. On 29-30 September, the STDF co-hosted with the Economic Community of West African States (ECOWAS) a stakeholder workshop in Bamako, Mali on the implementation of a regional action plan to control fruit fly in West Africa, in close collaboration with the World Bank, the European Communities and the Europe-Africa-Caribbean-Pacific Liaison Committee (COLEACP). Close to 100 participants, including government representatives, private sector, civil society, research institutions and development partners, validated the regional action plan, prepared by COLEACP, and adopted the Bamako Declaration, outlining a roadmap of recommended actions to commence implementation of the action plan.

65. On 30 October, the STDF organized a workshop in Geneva, back-to-back with the meetings of the SPS Committee, on the use of economic analysis to inform SPS decision-making. The workshop discussed the costs and benefits of strengthening SPS systems. Relevant experiences and lessons from both developed and developing countries were presented, as well as guidelines to assist countries in applying economic analysis in SPS decision-making. Detailed information about these three events, including summary reports, background documentation and presentations, is available on the STDF website. In addition, the STDF Secretariat prepared short briefing notes summarizing the main discussions and conclusions emerging from these events.40

66. Two STDF thematic events are scheduled in 2010. A workshop/expert seminar on SPS performance indicators will take place on 1 July, back-to-back with the WTO SPS Committee meeting in Geneva, aiming at assisting SPS practitioners in improving the design and management of SPS projects, and lead to better monitoring and measurement of results. The event will build on previous STDF work on good practice and present the results of a joint STDF/OECD study on indicators to measure performance and ensure sustainability of SPS-related technical cooperation. A workshop on public-private partnerships in SPS capacity building is scheduled in the second half of the year, aiming at exploring new modalities of capacity building and fostering a more systematic dialogue with the private sector. The event will present examples and seek to identify the elements of effective and successful public-private partnerships in SPS capacity building.

67. Since the 2005 Review, the international standard-setting bodies have consistently provided information about their technical assistance activities to the SPS Committee. All three organizations have developed training programmes, including conferences, seminars and workshops, to enhance national capacities on SPS matters. The OIE reported in 2009 that the Performance of Veterinary Services (PVS) tool related to animal health had been conducted in many countries to identify their needs and priorities, in order to solve existing problems. In addition, the OIE supported the participation of developing country Members in the elaboration of standards by ensuring that experts from every region participated in developing the draft text of a scientific standard. The Codex and the IPPC have trust funds which sponsor the participation of officials from developing country Members and economies in transition to participate in their meetings. The programme is aimed at enhancing those officials' level of participation in the elaboration of Codex standards. In addition to information from the OIE, IPPC and the Codex, other observers organizations, including FAO, the World Bank, OIRSA, IICA, UNIDO and UNCTAD, provide regular updates concerning their provision of technical assistance.

40 STDF Briefing notes are available at: http://www.standardsfacility.org/Archive_1PageBriefings.htm.
68. **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.
- The Secretariat is requested to keep the Committee informed of its relevant technical assistance activities and of the activities of the Standards and Trade Development Facility.
- The observer organizations are invited to keep the Committee informed of their capacity building activities relevant to the SPS Agreement.

VII. SPECIAL AND DIFFERENTIAL TREATMENT (ARTICLE 10)

69. In the 2005 Review, the Committee agreed to continue to consider specific, concrete actions to address the problems faced by least-developed and developing country Members in the implementation of the SPS Agreement and in making use of the benefits of the Agreement. Members were 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 in October 2004.41

70. Special and differential treatment is a standing agenda item. In 2005, Members were invited to share with the Committee their experience under the procedure to enhance the transparency of special and differential treatment. With respect to the proposals referred to the SPS Committee by the General Council, the Committee adopted, in June 2005, a report to the General Council on these proposals. 42 The report expresses 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. The report also identifies elements for discussion 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. Discussion of these elements commenced at the Committee meeting of October 2005.

71. In March 2006, a Special Workshop was held to further identify ways to address the problems faced by developing country Members in implementing the SPS Agreement. Discussions at this Workshop focussed on the effectiveness of technical assistance and suggested the need for further work to improve the implementation of the transparency provisions. 43 In 2007, Egypt proposed amendments to the procedures for S&D transparency, some of which were adopted by the Committee as revisions to the general recommended procedures for transparency. Egypt's proposals are contained in JOB(07)/104 and the revised Transparency Recommendations are in G/SPS/7/Rev.3.

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41 G/SPS/33.
42 G/SPS/35.
43 G/SPS/R/41.
72. In February 2006, the Committee agreed to further extend the procedure for transparency of special and differential treatment provided in response to specific needs of developing country Members, but to date there has been no indication that Members are using this procedure. Starting in 2008, the Committee has considered proposals for the revision of the procedure to enhance the transparency of special and differential treatment. The proposal has been revised several times to incorporate further comments and suggestions made by Members at informal and regular meetings in October 2008, and in February, June and October 2009.

73. At its October 2009 regular meeting, the Committee adopted, on an ad referendum basis, a revision of the procedure to enhance the transparency of special and differential treatment. No objections were raised by the 16 December 2009 deadline, and the revised decision was subsequently circulated as G/SPS/33/Rev.1.

74. The Committee also continued its examination of the implementation of the SPS Agreement and the concerns of developing country Members. The proposals referred to the SPS Committee by the General Council were on the agenda of each meeting of the Committee. Although there were substantive discussions of some revisions informally suggested by the African Group at the February, March and October 2006 meetings, the Committee was not able to reach a decision on any of the specific proposals as presented.

75. However, with a view to fulfilling the Doha Development Mandate, several Members suggested approaches to advance the work of the Committee to address the proposals as identified by Members including seeking clarification of the concerns underlying the proposals. In June 2006, the United States introduced a paper containing a compilation of ideas related to technical assistance and special and differential treatment, taking into account information provided by developing country Members at the Workshop on the Implementation of the Agreement, held in March 2006.

76. At an informal meeting on Special and Differential Treatment held in February and March 2007, the Committee discussed the five proposals on special and differential treatment referred to it in August 2004. In particular: (i) the G/SPS/33 procedure and its extension until 2008; (ii) the G/SPS/35 report; (iii) the African Group's revisions to its proposal on Article 9.2; (iv) the adoption by the General Council of the proposal from a number of small and vulnerable economies; and (v) Members' submissions on technical assistance and the paper from the United States on Special and Differential Treatment. A revised proposal regarding Article 10.1 was presented to the Committee in June 2007 and discussed at its October meeting.

77. The Decision on Implementation taken at the Doha Ministerial Conference in 2001 included, inter alia, a clarification on Article 10.2. 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 normally mean at least 6 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 indicates that in the context of paragraph 2 of Annex B of the SPS Agreement, a period of 6 months shall normally be provided between the publication of a measure and its entry into force.

44 G/SPS/33/Add.1.
45 G/SPS/W/224 and subsequent revisions.
46 G/SPS/41.
47 G/SPS/W/198.
48 G/SPS/R/41.
49 G/SPS/W/198.
50 JOB(07)/99.
51 WT/MIN(01)/17, paragraph 3.1.
78. The Committee on Trade and Development Special Session (CTD-SS) has been considering two proposals which are related to the SPS Agreement: one proposal relating to Article 10.2 tabled by India and another proposal relating to Article 10.3 tabled by the African Group and a group of developing country Members. The specific proposals and the most recent language considered under each article was brought to the attention of the SPS Committee. With respect to Article 10.2, the proponents were of the view that the current interpretation of the phrase "longer time-frame for compliance" found in paragraph 3.1 of the Doha Decision on Implementation-Related Issues and Concerns was not sufficient for operationalizing this Article. With respect to Article 10.3 relating to the granting of time-limited exceptions by the SPS Committee from obligations under the Agreement, the proponents claim that their focus is on ensuring predictability of the process to request such an exception, while other Members are concerned that the proposal would prejudge the outcome of such requests and amount to automatic granting of waivers. The objective of the CTD-SS is to agree on specific recommendations on all outstanding proposals. Some Members have recommended that all the SPS-related proposals be discussed in the SPS Committee.

79. In its proposal on the Third Review, India stressed the need to expedite the work under the special and differential agenda, and asked that the implementation of the procedure to enhance transparency of special and differential treatment be evaluated. Egypt suggested that the Committee develop a "quick guide" to inform least-developed and developing country Members of the steps to take should a new or modified SPS measure potentially have significant effect on their international trade.

80. **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.*

**VIII. REGIONALIZATION (ARTICLE 6)**

81. In the 2005 Review, the Committee decided to 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 discussions in the Committee. Members were encouraged to provide information on their experiences in the implementation of Article 6, and observer organizations were 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 ("regionalization").

82. Regionalization is a standing agenda item. At each regular meeting of the Committee, Members are invited to provide information regarding their experience with the recognition of pest- or disease-free areas and areas of low pest or disease prevalence. Observer organizations regularly provide information to the Committee regarding relevant advances in their work on this issue.

Measures”, to facilitate the recognition of pest- and disease-free areas or areas of low pest or disease prevalence. The guidelines identify the type of information normally needed for the recognition of regionalization, as well as typical administrative steps in the recognition process. The Committee agreed to monitor the implementation of Article 6, on the basis of information provided by Members.

84. Both the IPPC and the OIE have provided guidance for countries seeking to establish, or to be recognized for, pest- or disease-free status. 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; 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.

85. 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. At its 77th General Session in May 2009, the OIE adopted a number of resolutions related to recognition of disease-free areas. These are contained in the annexes to document G/SPS/GEN/943. The World Global Assembly (formerly International Committee) approved a list of countries or zones that had applied for official OIE recognition of their sanitary status concerning four diseases: BSE, FMD, contagious bovine pleuropneumonia (CBPP), and rinderpest. In addition, the OIE is working with the FAO to eradicate rinderpest globally and is considering the possibility of granting official recognition of freedom from certain horse diseases.

86. The procedures established by the OIE for FMD-free compartments as a new approach are described in document G/SPS/GEN/971. The OIE also continues to consider standards based on the treatment of commodities as a mechanism to avoid the requirement for zones to establish disease freedom. That mechanism will be further discussed at the next meeting of the Code Commission and at the OIE General Session in May 2010.

87. 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).
- 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.

IX. IMPLEMENTATION OF THE AGREEMENT – SPECIFIC TRADE CONCERNS

88. In the 2005 Review, the Committee encouraged Members to make use of the opportunity to identify specific trade problems and to seek to find mutually satisfactory resolutions of those problems. Members were encouraged to inform the Committee when specific trade concerns were resolved, and the Secretariat was requested to continue to provide regularly updated information on the specific trade concerns considered by the Committee.

89. Part of each Committee meeting is devoted to the consideration of specific trade concerns raised by Members. Since 2000, the Secretariat has annually updated a document that summarizes

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53 G/SPS/48.
the specific trade concerns brought to the Committee’s attention since 1995. The excerpts below are from the tenth revision of G/SPS/GEN/204, issued in February 2010, which includes all issues raised at SPS Committee meetings through to the end of 2009. All information on specific trade concerns can also be searched in the SPS IMS.

90. Altogether, 290 specific trade concerns were raised between 1995 and 31 December 2009. Figure 3 shows the number of new concerns raised each year; 13 new concerns were raised in 2009. Figure 4a categorizes the trade concerns raised since 1995 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 concern measures taken with both animal health and food safety objectives. For the purposes of these graphs, a single objective has been designated as the principle concern, however all relevant keywords have been assigned for purposes of electronic searches of the data on specific trade concerns. Overall, 28 per cent of trade concerns relate to food safety concerns, 26 per cent relate to plant health, and 6 per cent concern other issues such as certification requirements or translation. Forty per cent 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). That latter category includes issues related to influenza A/H1N1. Figure 4b shows that TSEs account for 36 per cent of animal health concerns, while issues related to foot-and-mouth disease account for 24 per cent. The remaining 40 per cent relate to other animal health concerns and avian influenza.

Figure 3 - Number of New Issues Raised

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54 G/SPS/GEN/204 and Revisions 1 through 10 and addenda.
91. Developing country Members are participating actively under this agenda item in the SPS Committee meetings. Figure 5a indicates that since 1995, developing country Members have raised 146 trade concerns (on many occasions more than one Member has raised, supported or maintained an issue) compared to 190 raised by developed country Members and three raised by least-developed country Members.\textsuperscript{55} A developing country Member has supported another Member raising an issue in

\textsuperscript{55} The European Communities was counted as one Member. Similarly, when one Member spoke on behalf of ASEAN, it was counted as one Member only.
188 cases, compared to 136 for developed country Members and one for least-developed country Members. In 178 cases, the measure at issue was maintained by a developed country Member, and in 149 cases it was maintained by a developing country Member. No trade concerns regarding measures maintained by least-developed country Members have been raised. Figure 5b shows the number of new issues raised each year by each category of Member.

**Figure 5a – Participation by WTO Members (1995-2009)**

<table>
<thead>
<tr>
<th>Category</th>
<th>Developed Countries</th>
<th>Developing Countries</th>
<th>Least-Developed Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Members Raising the Issue</td>
<td>13</td>
<td>149</td>
<td>190</td>
</tr>
<tr>
<td>Supporting Members</td>
<td>1</td>
<td>136</td>
<td>188</td>
</tr>
<tr>
<td>Members Maintaining the Measure in Question</td>
<td>146</td>
<td>178</td>
<td>190</td>
</tr>
</tbody>
</table>

**Figure 5b – Number of New Issues Raised by Members**

- Developed countries
- Developing countries
- Least-Developed Countries
92. Figure 6 indicates that 79 trade concerns have been reported resolved out of the 290 trade concerns raised since 1995. Three issues were reported resolved in 2009. Eighteen trade concerns have been reported partially solved. 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 193 trade concerns. It is also likely that other concerns have been resolved without the Committee being made aware of these developments.

93. During the discussions related to the Third Review, Cuba noted that several of the trade concerns had been continuously raised over a long period of time, and asked that the Committee consider the best way to deal with those concerns.

94. **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.*

X. **IMPLEMENTATION OF THE AGREEMENT – ARTICLE 13**

95. The members of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) referred to Article 13 of the Agreement and to Members’ responsibility to comply with the SPS Agreement. As some Members had difficulties understanding and applying Article 13, MERCOSUR proposed that the
Committee elaborate guidelines to implement Article 13 and render its provisions effectively applicable by Members.

96. Some Members considered the MERCOSUR proposal as a good basis for further discussion on the issue of private standards and on Article 13, to enable, in particular, small developing country Members to better implement SPS provisions and improve market access.

97. Other Members noted that developing guidelines for Article 13 or a Code of Good Practice for private standards could pre-empt the results of the Committee's current work on private standards.

98. **Recommendations:**

- Members are encouraged 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.

- Specific problems relating to the implementation of Article 13 may be raised as specific trade concerns.

**XI. PRIVATE VOLUNTARY STANDARDS**

99. Since the 2005 Review of the SPS Agreement, there has been frequent discussion in the Committee on the issue of private voluntary standards ("private standards"). The discussions considered the impact of commercial and private standards on market access; the effect of private standards on development and whether it is appropriate for the Committee to have a discussion on related legal aspects, as some Members do not consider this to be within the mandate of the Committee. There has been no formal determination within the WTO on whether private standards fall under the jurisdiction of the SPS Agreement.

100. The issue of private standards was first raised at the June 2005 meeting of the Committee. At that meeting, Saint Vincent and the Grenadines raised a concern regarding the operation of a EurepGAP scheme in relation to trade in bananas with supermarkets in the United Kingdom. The requirement was with respect to the use of certain pesticides. Other Members also expressed concerns with the effects of private standards on their trade. An information session was subsequently organized in the margins of the October 2006 meeting with representatives of EurepGAP and UNCTAD. The Committee also decided to include the issue of private and commercial standards as part of the agenda of its February 2007 meeting. A background note by the Secretariat described the different types of private standards, and summarized the types of concerns that had been identified by Members.

101. In 2008, the Committee continued to discuss the effects of commercial and private SPS – related standards on trade, and the appropriate role of the SPS Committee. At its June meeting, an informal information session was held with representatives of entities involved in the development and certification of private standards, as well with organizations who have undertaken related studies. Members were invited to propose possible actions by the SPS Committee in response to a series of questions.

102. Members agreed to work within a small group on an informal and flexible basis, with a commitment to keep the Committee fully informed. A list of documents and other information on

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57 G/SPS/R/37/Rev.1, paras.16-20.
58 G/SPS/R/43, paras. 40-42.
59 G/SPS/GEN/746.
private standards, including all the documents on private standards circulated in the SPS Committee, and a list of research and researchers on private standards, was made available by the Secretariat.\textsuperscript{60}

103. In October 2008, the Committee agreed to the actions proposed in document G/SPS/W/230, with the following changes: (1) that the Secretariat provide a format for the information solicited for purposes of undertaking a comparative study; (2) that there be no limitation on the number of products a Member could identify as affected by private standards; and (3) that although Members should make every effort to provide as complete information as possible with regard to each product identified, a lack of complete information should not necessarily prevent consideration of the product within the comparative study.

104. As a follow up, in December 2008, the Secretariat circulated a questionnaire on SPS-related private standards.\textsuperscript{61} Members were invited to send their responses to the questionnaire by 16 February, which was subsequently extended until 24 April 2009. A total of 22 Members provided responses, in many cases for several products.

105. These responses were summarized in a compilation document, considered by the Committee at its June meeting.\textsuperscript{62} The document was revised following the October meetings of the Committee and was circulated under a new title.\textsuperscript{63}

106. The initial replies to the questionnaire indicated that producers and companies considered private standards as "the" market access condition with which they had to comply. For most of them, there was no understanding of a distinction between national and international versus private standards. Those producers and companies which managed to meet private standards were able to gain or maintain market share, although that did not necessarily provide a price premium. For many producers supplying a number of markets or buyers, private standards mean complying with a multitude of standards and paying separately for their certification.

107. According to the initial responses, smaller producers were particularly affected by private standards due to their limited capacity to undertake the investment necessary to meet the detailed requirements and pay for the certification. Some which could meet official national food safety requirements in their export markets found themselves unable to satisfy the "safety" requirements of private standards. In some instances, technical assistance could assist farmers to meet the requirements of private standards.

108. On the other hand, it has been suggested that private standards and their certification requirements serve an important function in providing assurances to buyers and in responding to consumer demands in the area of food quality as well as in other areas such as labor and environmental requirements. Some Members consider that interfering in these initiatives of private entities could be inappropriate, except in instances of deceptive practices and distortions of competition. At the same time, some sensitization of entities involved with private standards was occurring, they were alerted to concerns related to lack of transparency and adverse effects on developing countries. Still, it was unrealistic for all producers to expect to be able to participate competitively in international trade.

109. An underlying preoccupation expressed by many Members was the importance of preserving the principles and relevance of the SPS Agreement in international trade matters related to sanitary and phytosanitary issues, and in not undermining the value of international standards. Several

\textsuperscript{60} G/SPS/GEN/865 and G/SPS/GEN/891.
\textsuperscript{61} G/SPSW/232.
\textsuperscript{62} G/SPS/GEN/932.
\textsuperscript{63} G/SPS/GEN/932/Rev.1.
Members also asked for, in addition to the ad-hoc working group, the establishment of a permanent monitoring mechanism by the Committee of private standards.

110. In its proposal of issues for the Third Review\(^{64}\), India suggested that the Committee develop specific guidelines on the measures to be taken by Members in cases where private standards were being adopted by various entities within their territories. Some Members also suggested that Members consider introducing a Code of Good Practice (similar to Annex 3 of the TBT Agreement) for all voluntary standard-setting authorities located within their territories. Egypt suggested that the SPS Committee ask the Secretariat to prepare a legal note on the scope of the SPS Agreement and its relation to private standards.

111. The Committee's consideration of private standards has revealed widely divergent views. Some Members suggest that resources would be best used by focussing on the development of official measures and on specific trade concerns. In addition, Members could address their concerns directly to private standard and certification bodies, and highlight the need for improved transparency, consultation of stakeholders and, benchmarking of standards to official international standards.

112. As agreed by the Committee, the Secretariat prepared a document compiling Members' suggestions of possible actions that could be taken by the Committee and/or Members to address concerns regarding the effects of private SPS standards.\(^{65}\) This document was considered at the October 2009 meeting and will be revised to reflect Members' concerns.

113. MERCOSUR expressed concerns regarding the proliferation of private standards and how these affected market access in the same manner as regulations\(^{66}\). They suggested that the SPS Committee was competent to find a solution to the concern of many Members that private standards were being applied in a manner that rendered the SPS Agreement ineffective.

114. The OIE, IPPC and Codex also provided updates with respect to their work on private standards. The Committee decided to further consider the Secretariat's second report, G/SPS/W/247, in light of comments from Members and work undertaken by the OIE and Codex.

115. **Recommendations:**

- Members and Observers are encouraged to provide information on any relevant studies or analysis which they have undertaken, or of which they are aware.

- The Committee may continue its consideration of SPS-related private standards and their effects on international trade taking into account the guidance to be provided by the ad hoc working group on this matter.

**XII. IMPLEMENTATION OF THE AGREEMENT – USE OF AD HOC CONSULTATIONS**

116. In the 2005 Review, Members were encouraged to make use of the possibility for ad hoc consultations, including through the Good Offices of the Chairperson of the SPS Committee, to facilitate the resolution of specific trade concerns.

117. Article 12.2 states that the Committee "shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues". To date, this has been

\(^{64}\) G/SPS/W/236/Rev.1.

\(^{65}\) G/SPS/W/247.

\(^{66}\) G/SPS/W/246.
done through: (1) Members raising specific trade concerns at regular meetings of the SPS Committee; (2) discussions by the Committee of specific issues such as implementation of ISPM 15 and private/commercial standards; and (3) provision in the Committee's Working Procedures for the use of the Good Offices of the Chairperson.

118. Document G/SPS/GEN/781 gives a broad overview of different ways in which the SPS Committee has facilitated ad hoc consultations among Members. Most commonly, Members have raised specific trade concerns at meetings of the Committee, and sought bilateral resolutions. During the Second Review, there had been proposals to improve and increase the use of the mechanism, such as providing more time for this purpose at Committee meetings, establishing specific procedures, disseminating information about the resolution of concerns raised in the past and facilitating participation of developing and least-developed country Members. Rules and procedures for using the "Good Offices" of the Chair had also been proposed. This confidential procedure had been used on three occasions. In addition, according to Article 5.8, Members could request an explanation of the reasons for a measure which did not conform to an international standard or for which an international standard does not exist. This provision has been invoked by several Members over the years, and some had suggested developing a procedure for its use, however no specific procedure has been proposed.

119. Following-up on the Second Review, the United States and Argentina submitted proposals on guidelines for the use of the Chairperson's Good Offices, first individually and subsequently jointly. Many Members welcomed the focus on addressing the technical issues, and the possible involvement of Codex, IPPC or OIE as appropriate. Several Members, however, indicated their preference to instead pursue the development of an horizontal mechanism to address non-tariff measures, under discussion in the Non Agricultural Market Access (NAMA) Negotiations. Argentina and the United States noted that their joint proposal on ad hoc consultations was in line with proposals in NAMA.

120. Argentina submitted a further proposal to develop a procedure to enhance the use of the good offices of the SPS chairperson and noted that there was no conflict between the joint Argentina-US proposal and the most recent draft under discussion in the NAMA negotiations on a "horizontal" mechanism for the resolution of trade concerns. The European Communities and India noted their support for the NAMA horizontal approach, and their concern that the development of a mechanism specific to the SPS Committee could undermine the work on a horizontal approach.

121. In June 2009, the Committee agreed to consider a provisional mechanism for use in the SPS Committee, that would be reviewed and revised as necessary when a conclusion was reached regarding the horizontal mechanism. The proposed provisional mechanism, based on the joint Argentina-US proposal, is contained in G/SPS/W/243.

122. India proposed that in the context of the Third Review, Members assess the work undertaken by the Committee to implement the provisions of Article 12.2 of the SPS Agreement.

123. In October 2009, Brazil proposed a modified consultation mechanism in the SPS Committee, with the objective of ensuring the effective resolution of SPS divergences amongst Members. India and the Philippines stated a preference for the procedure currently under negotiation in NAMA, to ensure coherence across the board. China recognized the need for ad hoc negotiations and

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67 G/SPS/W/233.
68 G/SPS/W/241.
69 G/SPS/W/233.
70 G/SPS/W/236/Rev.1.
71 G/SPS/W/248.
72 TN/MA/W/106.
consultations amongst Members under the SPS Agreement, but expressed concerns about the costs in bringing technical experts from capital for the relevant meetings. Mexico submitted written comments in response to documents G/SPS/W/243 and G/SPS/W/248.

124. A number of Members indicated their preference for the mechanism proposed in G/SPS/W/243. They noted that they had been waiting for the results of the NAMA discussions for many years, and that paragraph 3 of G/SPS/W/243 would require that the outcome of the NAMA negotiations be taken into account.

125. Although Argentina was a co-author of the text under discussion in the NAMA negotiations, it was of the view that the SPS Committee had to move soon to formalize rules with respect to ad hoc consultations and in particular on the use of the good offices of the Chair. A revision of G/SPS/W/243 was prepared for consideration by the Committee in March 2010.

126. **Recommendations:**

- Members should endeavour to expeditiously conclude this outstanding issue from the Second Review in a manner which facilitates the use of ad hoc consultations, including through the good offices of the Chairperson of the SPS Committee, for the resolution of specific trade concerns.

**XIII. COOPERATION WITH THE CODEX, OIE AND IPPC**

127. In the 2005 Review, the Committee noted that the relationship between the Committee and the Codex, OIE and IPPC should be clarified with a view to facilitating the implementation of the SPS Agreement while avoiding duplication of activities. The Committee also invited Members to provide information regarding their experiences in that regard and to submit specific suggestions for consideration by the Committee.

128. The Committee is required to monitor the process of international harmonization and coordinate efforts with these bodies (Article 3.5), and to develop a procedure to monitor the use of international standards, guidelines and recommendations (Article 12.4). The Committee adopted a provisional monitoring procedure in July 1997, which has been subsequently extended and revised. In addition, on the basis of an initiative from a Member, the Committee may, through appropriate channels, invite the relevant international organizations to examine specific matters with respect to a particular standard, guideline or recommendation (Article 12.6). In practice, this has been done through a letter from the Chairperson of the SPS Committee drawing the attention of the Codex, IPPC and OIE to relevant issues that have been identified in the annual report on the monitoring of the use of international standards.

129. Representatives from each of these organizations attend the SPS Committee meetings and representatives from the WTO Secretariat attend meetings of these international organizations as observers. Cooperation between the SPS Committee and the international standard-setting organizations is enhanced by coordinating meeting schedules to facilitate Member participation in regularly scheduled meetings. Several of the activities of the international standard-setting bodies have been discussed in previous Sections of this Report. The STDF provides an additional forum for coordination among its partner organizations, including the WTO, Codex, IPPC and OIE.

130. In the context of the recommendation arising from 2005 Review, New Zealand tabled a proposal to clarify the relationship between the SPS Committee and the Codex, IPPC and OIE, 73 G/SPS/GEN/988 and G/SPS/GEN/989. 74 G/SPS/11/Rev.1.
including a number of questions to be put to the Three Sisters.  

Japan proposed, in light of the various cross-sectoral issues under consideration such as regionalization or private standards, that the Committee organize a workshop on the standard-setting procedures of the Codex, IPPC and OIE.

131. A special workshop was held on 26 October 2009 to examine the work of the Codex, IPPC and OIE and how to enhance the relationship between them and the SPS Committee. The programme for the workshop was organized around: (i) presentations by the international standard-setting organizations on the procedures and issues they face in the development, adoption and monitoring of the use of international standards of relevance to the SPS Committee; and (ii) discussions on concrete actions to improve coordination between the Committee and Codex, IPPC and OIE, to increase the use of international standards and avoid duplication of efforts.

132. The standard-setting procedures of each organization were reviewed, with a focus on how to enhance the participation of developing countries. Areas for future collaboration between the four bodies were identified, and the need for more effective coordination of positions at the national level was stressed. The workshop also resulted in 11 recommendations which seek to improve coordination and collaboration between the SPS Committee, Codex, IPPC and OIE. The report of the workshop is found in G/SPS/R/57, and the presentations from the workshop are available on the SPS gateway of the WTO website.

133. Under the Third Review, Egypt suggested that Members provide information on their experiences on how the work of Codex, IPPC and OIE was being coordinated at the national level.

134. **Recommendations:**

- The Committee should follow-up on the recommendations that resulted from the October 2009 workshop (G/SPS/R/57) with a view to strengthening the relationship between the Committee and the Codex, IPPC and OIE.

- 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.

### XIV. GOOD REGULATORY PRACTICE

135. In the 2005 Review, some Members noted that many problems related to gaining market access were directly linked to failure to comply in a timely fashion with certain obligations laid down in the SPS Agreement. Mexico proposed that the Committee consider developing guidelines that would promote practical implementation of specific provisions of the SPS Agreement. This type of guideline on good regulatory practices would enable Members to check that the obligations of the SPS Agreement had been respected, before adopting new sanitary and phytosanitary measures.

136. During the Third Review, some Members have flagged the issue of the lack of information on the implementation and use of the various guidelines adopted by the Committee. Chile observed that very little information has been provided by Members regarding, for instance, their recognition of equivalence or of pest- and disease-free areas. It would be desirable to receive more information regarding the implementation of the Committee's decisions and guidelines and Chile urged Members to notify these agreements using the appropriate mechanism established by the Committee.

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75 G/SPS/W/206.
76 G/SPS/W/226.
77 G/SPS/W/235.
78 [http://www.wto.org/english/tratop_e/sps_e/wkshop_oct09_e/wkshop_oct09_e.htm](http://www.wto.org/english/tratop_e/sps_e/wkshop_oct09_e/wkshop_oct09_e.htm)
79 See G/SPS/W/166.
137. Canada noted that given the excellent search facilities available through the SPS Information Management System\(^80\), there was no need for a questionnaire to solicit information from Members on their use of the Committee's decisions, guidelines and recommendations.

138. **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.

**XV. CONTROL, INSPECTION AND APPROVAL PROCEDURES (ARTICLE 8 AND ANNEX C)**

139. In the 2005 Review, the European Communities suggested that a discussion on issues related to implementation of control measures would be useful to clarify ambiguity regarding who should bear the cost of Members' inspections. The European Communities drew attention to the increasing number of requests for inspection visits and the resource intensive nature of these visits. The European Communities suggested that the Committee should discuss the possibility of developing common practices in this regard.

140. It was agreed that the Committee should consider the most effective way of facilitating the implementation of Article 8 and Annex C of the SPS Agreement, with a focus on those problems identified by Members, including the issue of costs related to inspection visits and conformity assessment. Members were invited to provide information on their experiences in that regard and to submit specific suggestions for consideration by the Committee.

141. In the context of the Third Review of the Agreement, the Committee had an initial discussion of a proposal by China for clarification of certain provisions in Annex C with regard to conformity assessment procedures.\(^81\) China noted that many specific trade concerns related to control, inspection and approval, however, Annex C was seldom used to justify requirements, perhaps because some of its clauses were ambiguous. India supported China's proposal for further clarification on the control, inspection and approval procedures in Article 8 and Annex C of the SPS Agreement, and suggested that guidelines on those procedures would assist Members and avoid problems among trading partners.\(^82\) MERCOSUR also stressed the need to clarify some of the provisions of Annex C to prevent different implementation criteria and unjustified trade restrictions.\(^83\)

142. In their respective proposals on Article 8 and Annex C, China, India and MERCOSUR proposed, *inter alia*, that:

- Members be encouraged to exchange information on their experiences and difficulties in implementing Article 8 and Annex C of the Agreement.
- The SPS Committee initiate discussions to identify typical steps of control, inspection and approval procedures in relation to sanitary and phytosanitary measures, as well as application recommendations and good practices, to provide guidance for implementation.
- Certain terms in Annex C such as "undue delay" in paragraph 1(a), "reasonable and necessary" in paragraph 1(e), "necessary assistance" in paragraph 2, "reasonable inspection"
in paragraph 3, and the procedure referred to in paragraph 1(i) be discussed in the SPS Committee so that necessary explanations and clarification can be made to facilitate their implementation.

- The SPS Committee draw the attention of Codex, IPPC and OIE to these issues and consult with them regarding the development of relevant international standards pertaining to control, inspection and approval procedures, such as sampling, on-site inspection, determination of soil free, etc., to further the implementation of Article 8 of the SPS Agreement.

143. Australia noted\(^84\), along with several other Members, that Codex, IPPC and OIE played important roles in this area. Codex noted that it was active in developing guidance on the conduct of audits and inspection, and that new work was being undertaken on guidance for national food control systems. The OIE recalled that there were existing standards on certificates, inspections, etc., and that it was also looking at infrastructure needs. However the OIE did not give guidance on what was reasonable or necessary as this could vary from situation to situation and be specific to diseases. The IPPC noted that it had two general standards on inspection procedures and on phytosanitary treatments, and welcomed any specific suggestions to further its process on the issue. In response to a request by the Chairman, Codex, IPPC and OIE circulated papers describing their work in this area for consideration at the June 2009 meeting of SPS Committee.\(^85\)

144. Several Members noted that the absence of mention of Article 8 and Annex C was not necessarily due to lack of clarity in these provisions. Issues related to control, inspection and approval procedures were frequently discussed bilaterally, thus making it unnecessary to raise issues in the multilateral setting. Some Members suggested that it would be of little relevance to define "reasonable and necessary" broadly as those criteria would likely vary based on the context and the measures that were being discussed. It was essential that the interpretation of "reasonable" be determined on a case-by-case basis. Discussions in the SPS Committee could help educate Members about the relevant work of Codex, IPPC and OIE on control, inspection and approval procedures, as well as application recommendations and good practice.

145. Some Members noted that Article 8 had been identified in the previous Reviews as an issue for further work, and that duplication of work could be avoided by leaving technical issues to the standard-setting bodies. A more in-depth discussion on Article 8 and Annex C based on specific examples from Members could facilitate the implementation of Article 8. It was suggested that information sharing on implementation experiences be included as a standing agenda item of the Committee.

146. **Recommendations:**

- **Members are encouraged to provide information regarding their experiences in the implementation of Article 8 and Annex C.**

- **The Committee should consider the most effective way of facilitating the implementation of Article 8 and Annex C of the SPS Agreement, with a focus on those problems identified by Members, based on specific suggestions for consideration by the Committee.**

- **Codex, IPPC and OIE should be invited to continue to provide information on their work in this area to the SPS Committee and should also envisage to further their processes in this regard.**

\(^84\) G/SPS/W/238.

\(^85\) G/SPS/GEN/927, 929 and 947, respectively.
XVI. DISPUTE SETTLEMENT

147. Article 11 of the SPS Agreement indicates that the Dispute Settlement Understanding will apply to SPS disputes and provides for the consultation of experts when a dispute involves scientific or technical issues. As of 31 December 2009, more than 400 disputes had formally been raised under the WTO's dispute settlement system. Of these, 40 alleged violation of the SPS Agreement, although in seven cases this was not the main focus of the dispute. Panels have been established to examine fifteen SPS-related complaints: the United States' and Canada's complaints regarding the EC ban on meat treated with growth-promoting hormones; complaints by Canada and the United States against Australia's restrictions on imports of fresh, chilled or frozen salmon; one at the request of the United States to examine Japan's requirement that each variety of certain fruits be tested with regard to the efficacy of fumigation treatment; Japan's restrictions on apples due to fire blight requested by the United States; the Philippines complaints against Australia's quarantine procedures; complaints by the European Communities against Australia's quarantine procedures; complaints by the United States, Canada and Argentina concerning EC measures affecting the approval and marketing of biotech products; complaints of the European Communities against the United States and Canada on their continued suspension of obligations relating to the EC-Hormones dispute; New Zealand's complaint against Australia's restrictions on apples; Canada's and Mexico's complaints regarding against the United States on the Certain Country Labelling (Cool) Requirements; China's complaint against certain United States measures affecting imports of poultry; and Canada's complaint against Korea's measures affecting the importation of bovine meat and meat products from Canada. These cases are further detailed in Appendix B.
### APPENDIX A

**Summary of major SPS Committee activities, 2005-2009**

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<th>Subject</th>
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<th>Type of Activity</th>
<th>Related Documents</th>
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<td><strong>Equivalence</strong></td>
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<td><strong>Transparency</strong></td>
<td>2006</td>
<td>Questionnaire on the Operation of SPS Enquiry Points and National Notification Authorities - Revision</td>
<td>G/SPS/W/103/Rev.2</td>
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<td>2007</td>
<td>Compilation of Proposals regarding the Revision of the &quot;Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement&quot; (Art. 7)</td>
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<td>Overview regarding the Level of the Implementation of the transparency provisions of the SPS Agreement</td>
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<td>2008</td>
<td>Recommended Notification Procedures</td>
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<td>Workshop on Transparency - October 2007</td>
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<td>2009</td>
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</table>

### Technical Assistance

- **G/SPS/49**
- **G/SPS/GEN/545**
- **G/SPS/GEN/718**
- **G/SPS/GEN/726**
- **G/SPS/R/41**
- **G/SPS/GEN/797**
- **G/SPS/R/48**
- **G/SPS/GEN/74**
- **G/SPS/GEN/812**
- **G/SPS/GEN/864**
- **G/SPS/R/52**
- **G/SPS/GEN/902**
- **G/SPS/R/61**
- **G/SPS/R/53**
- **G/SPS/GEN/939**
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<td></td>
<td>2009</td>
<td>SPS Technical Assistance Activities in 2009</td>
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<td>2009</td>
<td>SPS Technical Assistance and Training Activities (1 September 1994 to 31 December 2009)</td>
<td>G/SPS/GEN/521/Rev.5</td>
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<td></td>
<td>2009</td>
<td>Evaluation of the Standards and Trade Development Facility (STDF)</td>
<td>G/SPS/GEN/899</td>
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<td>2009</td>
<td>Update on the Operation of the Standards and Trade Development Facility</td>
<td>G/SPS/GEN/969</td>
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<td></td>
<td>2009</td>
<td>Overview of SPS Need and Assistance in Eight Least Developed Countries</td>
<td>G/SPS/GEN/900</td>
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<tr>
<td><strong>Special and Differential Treatment</strong></td>
<td>2005</td>
<td>Report on Proposals for Special and Differential Treatment</td>
<td>G/SPS/35</td>
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<td></td>
<td>2005</td>
<td>Proposals and Progress on Special and Differential Treatment</td>
<td>G/SPS/GEN/543</td>
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<td>2006</td>
<td>Decision to Extend the Procedures to Enhance Transparency of S&amp;D in Favour of Developing Country Members</td>
<td>G/SPS/W/184</td>
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<td>2005</td>
<td>Special and Differential Treatment – Report by the Chairman to the General Council</td>
<td>G/SPS/39</td>
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<td>2006</td>
<td><em>Idem</em></td>
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<td>2007</td>
<td><em>Idem</em></td>
<td>G/SPS/44</td>
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<td>2007</td>
<td><em>Idem</em></td>
<td>G/SPS/46</td>
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<td></td>
<td>2008</td>
<td>Proposed Revision of the Procedure to Enhance Transparency of S&amp;D in Favour of Developing Country Members (G/SPS/33)</td>
<td>G/SPS/W/224</td>
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<td></td>
<td>2008</td>
<td><em>Idem</em> - Revision</td>
<td>G/SPS/W/224/Rev.1</td>
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<td>2009</td>
<td><em>Idem</em> - Revision</td>
<td>G/SPS/W/224/Rev.2, Rev.3, Rev. 4, Rev.5 &amp; Rev.6</td>
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<td></td>
<td>2009</td>
<td>Procedure to Enhance Transparency of S&amp;D in favour of Developing Country Members</td>
<td>G/SPS/33/Rev.1</td>
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<td>2006</td>
<td>Issues in the Application of Article 6 of the SPS Agreement – Background Document</td>
<td>G/SPS/GEN/640 &amp; Rev.1</td>
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<td>2006</td>
<td>Summary of the Special Meeting on Article 6</td>
<td>G/SPS/R/38 &amp; Corr.1</td>
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<td>Subject</td>
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<td>Related Documents</td>
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<td>Implementation of the Agreement-</td>
<td>2008</td>
<td>Guidelines to Further the Practical Implementation of Article 6 of the SPS</td>
<td>G/SPS/48</td>
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<td>Specific Trade Concerns</td>
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<td>Specific Trade Concerns</td>
<td>G/SPS/GEN/204/Rev.5 and Addenda</td>
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<td>G/SPS/GEN/204/Rev.6 and Addenda</td>
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<td>2007</td>
<td>Idem</td>
<td>G/SPS/GEN/204/Rev.7 and Addenda</td>
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<td>2007</td>
<td>Ad hoc Consultations and Resolution of Trade Concerns</td>
<td>G/SPS/GEN/781</td>
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<td>2008</td>
<td>Specific Trade Concerns</td>
<td>G/SPS/GEN/204/Rev.8 and Addenda</td>
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<td>2009</td>
<td>Specific Trade Concerns</td>
<td>G/SPS/GEN/204/Rev.9 and Addenda</td>
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<td>2009</td>
<td>Proposed Recommended Procedure for Ad Hoc Consultations or Negotiations among</td>
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<td>Members under the SPS Agreement (Article 12.2)</td>
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<td>Other</td>
<td>2005</td>
<td>Review of the Operation and Implementation of the SPS Agreement</td>
<td>G/SPS/36</td>
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<td></td>
<td>2006</td>
<td>SPS Agreement – Designation of a Regional Body – Communication from Antigua,</td>
<td>WT/COMTD/SE/W/16/Rev.1 &amp; Rev.2</td>
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<tr>
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<td></td>
<td>Barbuda, Barbados, Cuba, Dominica, Fiji, Grenada, Jamaica, Mauritius, Papua New</td>
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<td></td>
<td></td>
<td>Guinea, Solomon Islands, St. Kitts and Nevis, St. Vincent and the Grenadines –</td>
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<td></td>
<td></td>
<td>Revision</td>
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<td></td>
<td>2006</td>
<td>Committee on Trade and Development in dedicated Session – Report to the General</td>
<td>WT/COMTD/SE/5</td>
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<tr>
<td></td>
<td></td>
<td>Council on Measures to Assist Small Economies in Meeting their Obligations under</td>
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<td></td>
<td></td>
<td>the Agreements on SPS Measures, TBT and TRIPS</td>
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<td></td>
<td>2007</td>
<td>Private Standards and the SPS Agreement</td>
<td>G/SPS/GEN/746</td>
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<td>2007</td>
<td>Joint UNCTAD/WTO Informal Information Session on Private Standards</td>
<td>Job(07)/89/Rev.1</td>
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<td>2007</td>
<td>Relationship with Codex, IPPC and OIE</td>
<td>G/SPS/GEN/775</td>
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<td>2008</td>
<td>Private Standards – Identifying Practical Actions for the SPS Committee –</td>
<td>G/SPS/W/230</td>
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<td>Summary of Responses</td>
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<td></td>
<td>2008</td>
<td>Report of the STDF Information Session on Private Standards</td>
<td>G/SPS/R/50</td>
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<td></td>
<td>2008</td>
<td>Proposed Procedure for Third Review</td>
<td>G/SPS/W/228</td>
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<td>Report to the Council for Trade in Goods on China’s Transitional Review</td>
<td>2008</td>
<td></td>
<td>G/SPS/50</td>
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<td>Questionnaire on SPS-related Private Standards</td>
<td>2008</td>
<td></td>
<td>G/SPS/W/232</td>
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<tr>
<td>Documents and other Information of Private Standards</td>
<td>2008</td>
<td></td>
<td>G/SPS/GEN/865</td>
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<td>Research and Researchers on Private Standards</td>
<td>2008</td>
<td></td>
<td>G/SPS/GEN/891</td>
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<tr>
<td>Review of the Operation and Implementation of the SPS Agreement – Background Document</td>
<td>2009</td>
<td></td>
<td>G/SPS/GEN/887/Rev.1</td>
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<tr>
<td>Review of the Operation and Implementation of the SPS Agreement</td>
<td>2009</td>
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<td>G/SPS/W/237 &amp; Rev.1</td>
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<tr>
<td>Possible Actions for the SPS Committee Regarding Private Standards</td>
<td>2009</td>
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<td>G/SPS/W/247</td>
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<td>Membership in WTO and International Standard-Setting Bodies</td>
<td>2009</td>
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<td>G/SPS/GEN/49/Rev.9</td>
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<tr>
<td>Report (2009) on the Activities of the SPS Committee</td>
<td>2009</td>
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<td>G/L/897 &amp; Rev.1</td>
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</tbody>
</table>
APPENDIX B
WTO Disputes Invoking the SPS Agreement

Since 1 January 1995, violations of the SPS Agreement have been alleged in the following invocations of the formal dispute settlement provisions of the WTO. Those which have been referred to a panel are highlighted.

<table>
<thead>
<tr>
<th>DS Number</th>
<th>Parties and nature of complaint</th>
<th>Panel Report / Appellate Body Report circulation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>US complaint against Korea's inspection procedures for fresh fruits</td>
<td>Mutually satisfactory solution notified in July 2001 (G/SPS/GEN/265).</td>
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<tr>
<td>2</td>
<td>US complaint against Korea's inspection procedures for fresh fruits</td>
<td>Mutually satisfactory solution notified in July 2001 (G/SPS/GEN/265).</td>
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<tr>
<td>3</td>
<td>US complaint against Korea's shelf-life requirements for frozen processed meats and other products</td>
<td>Mutually agreed solution notified in July 1995.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Canadian complaint against Australia's import restrictions on fresh, chilled or frozen salmon</td>
<td>Mutually agreed solution notified in May 2000.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>US complaint against Australia's import restrictions on fresh, chilled or frozen salmon</td>
<td>Mutually agreed settlement notified in November 2000.</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Canadian complaint against Korea's restrictions on treatment methods for bottled water</td>
<td>Mutually agreed solution notified in April 1996.</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Canadian complaint against EC's prohibition of meat from animals treated with growth-promoting hormones</td>
<td>Same panel handled both complaints. See above.</td>
<td></td>
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<tr>
<td>9</td>
<td>US complaint against Japan's &quot;varietal testing&quot; requirement for fresh fruits</td>
<td>Mutually agreed solution notified in September 2001.</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>EC complaint against India's quantitative restrictions on agricultural and other products</td>
<td>Mutually agreed solution notified in April 1998.</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>EC complaint against US restrictions on poultry imports</td>
<td>Consultations requested on 18 August 1997; pending.</td>
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<tr>
<td>12</td>
<td>Swiss complaint against Slovakia's BSE-related restrictions on cattle and meat</td>
<td>Consultations requested on 11 May 1998; pending.</td>
<td></td>
</tr>
<tr>
<td>DS Number</td>
<td>Parties and nature of complaint</td>
<td>Panel Report / Appellate Body Report circulation</td>
<td>Comments</td>
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<td>-----------</td>
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<td>-----------------------------------------------</td>
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<tr>
<td>13 WT/DS134</td>
<td>Indian complaint against EC restrictions on rice imports</td>
<td></td>
<td>Consultations requested on 25 May 1998; pending.</td>
</tr>
<tr>
<td>15 WT/DS137</td>
<td>Canadian complaint against EC restrictions due to pine wood nematodes</td>
<td></td>
<td>Consultations requested on 17 June 1998; pending.</td>
</tr>
<tr>
<td>16 WT/DS144</td>
<td>Canadian complaint against US state restrictions on movement of Canadian trucks carrying live animals and grains</td>
<td></td>
<td>Consultations requested on 25 September 1998; pending.</td>
</tr>
<tr>
<td>17 WT/DS203</td>
<td>US complaint against Mexico's measures affecting trade in live swine</td>
<td></td>
<td>Consultations requested on 10 July 2000; pending.</td>
</tr>
<tr>
<td>18 WT/DS205</td>
<td>Thai complaint against Egypt's GMO-related prohibition on imports of canned tuna with soybean oil</td>
<td></td>
<td>Consultations requested on 22 September 2000; pending.</td>
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<tr>
<td>19 WT/DS237</td>
<td>Ecuadoran complaint against Turkey's import requirements for fresh fruit, especially bananas Turkey – Fresh Fruit Import Procedures</td>
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<td>Mutually agreed solution notified in November 2002.</td>
</tr>
<tr>
<td>21 WT/DS256</td>
<td>Hungarian complaint against Turkey's restrictions on imports of pet food (BSE)</td>
<td></td>
<td>Consultations requested on 3 May 2002; pending.</td>
</tr>
<tr>
<td>22 WT/DS270</td>
<td>Philippine complaint against Australia's restrictions on fresh fruits and vegetables, including bananas Australia - Fresh Fruit and Vegetables</td>
<td></td>
<td>Panel established in August 2003.</td>
</tr>
<tr>
<td>23 WT/DS271</td>
<td>Philippine complaint against Australia's restrictions on pineapple</td>
<td></td>
<td>Consultations requested on 18 October 2002; pending.</td>
</tr>
<tr>
<td>24 WT/DS279</td>
<td>EC complaint against India's export and import policy</td>
<td></td>
<td>Consultations requested on 23 December 2002; pending.</td>
</tr>
<tr>
<td>25 WT/DS284</td>
<td>Nicaraguan complaint against Mexico's phytosanitary restrictions on black beans</td>
<td></td>
<td>Mutually agreed solution notified in March 2004.</td>
</tr>
<tr>
<td>26 WT/DS287</td>
<td>EC complaint against Australian quarantine regime Australia – Quarantine Regime</td>
<td></td>
<td>Mutually agreed solution notified in March 2007.</td>
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<tr>
<td>DS Number</td>
<td>Parties and nature of complaint</td>
<td>Panel Report / Appellate Body Report circulation</td>
<td>Comments</td>
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<td>-----------------------------------------------</td>
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<tr>
<td>30 WT/DS297</td>
<td>Hungary's complaint against Croatia's restrictions on live animals and meat products (TSEs).</td>
<td></td>
<td>Consultations requested on 9 July 2003; pending.</td>
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<tr>
<td>33 WT/DS367</td>
<td>New Zealand complaint against Australia's restrictions on apples Australia - Apples</td>
<td></td>
<td>Panel established on 21 January 2008.</td>
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<tr>
<td>34 WT/DS384</td>
<td>Canadian complaint against the US country of origin labelling requirements United States – Certain Country of Origin Labelling (COOL) Requirements</td>
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<td>Panel established on 19 November 2009.</td>
</tr>
<tr>
<td>35 WT/DS386</td>
<td>Mexican complaint against the US country of origin labelling requirements United States – Certain Country of Origin Labelling (COOL) Requirements</td>
<td></td>
<td>Panel established on 19 November 2009.</td>
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<tr>
<td>37 WT/DS391</td>
<td>Canadian complaint against Korea's measures affecting the importation of bovine meat and meat products Korea – Bovine Products</td>
<td></td>
<td>Panel established on 31 August 2009.</td>
</tr>
</tbody>
</table>

* Neither of these two requests for consultations claim violation of the SPS Agreement, however, the reports address issues related to the implementation of the SPS Agreement.
APPENDIX C

List of SPS Committee documents submitted by Members 2005-2009

A. Information on Member’s experiences regarding Equivalence (Article 4)

<table>
<thead>
<tr>
<th>Year</th>
<th>Member</th>
<th>Title/Subject</th>
<th>Symbol</th>
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<tbody>
<tr>
<td>2005</td>
<td>Brazil</td>
<td>Technical Committee on the health and hygiene of fishery products of Argentina, Brazil, Chile and Uruguay – Equivalence of inspection systems</td>
<td>G/SPS/GEN/586</td>
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<tr>
<td>2007</td>
<td>Panama</td>
<td>Determination of the recognition of equivalence</td>
<td>G/SPS/N/EQV/PAN/1</td>
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<tr>
<td>2008</td>
<td>Dominican Republic</td>
<td>Determination of the recognition of equivalence</td>
<td>G/SPS/N/EQV/DOM/1</td>
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<tr>
<td>2009</td>
<td>European Communities</td>
<td>Control regime applicable for imports from third countries of certain products of animal origin and of live animals with regards to provisions related to the agreement between the European Communities and the Swiss Confederation of Trade in Agricultural products</td>
<td>G/SPS/GEN/896</td>
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</table>

B. Comments/Proposals regarding Transparency (Article 7 and Annex B)

<table>
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<th>Year</th>
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<th>Title/Subject</th>
<th>Symbol</th>
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<tbody>
<tr>
<td>2005</td>
<td>Kazakhstan</td>
<td>Transparency</td>
<td>G/SPS/GEN/544</td>
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<tr>
<td>2006</td>
<td>Australia, New Zealand and United States</td>
<td>Second Review of the SPS Agreement – Review of the implementation of transparency provisions</td>
<td>G/SPS/W/197</td>
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<td>Bulgaria</td>
<td>Transparency</td>
<td>G/SPS/GEN/737</td>
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<td>European Communities</td>
<td>Transparency</td>
<td>G/SPS/GEN/737</td>
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<tr>
<td></td>
<td>Romania</td>
<td>Transparency</td>
<td>G/SPS/GEN/737</td>
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<tr>
<td>2007</td>
<td>China</td>
<td>Proposal on the amendment of &quot;the recommended procedures for implementing the transparency obligations of the SPS Agreement (Article 7)&quot;</td>
<td>G/SPS/W/212</td>
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<td></td>
<td>European Communities</td>
<td>The EC NNA/EP for the SPS Agreement: experience acquired in the operational procedures and recent experience – Reflection note</td>
<td>G/SPS/GEN/803</td>
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<tr>
<td>2008</td>
<td>Argentina</td>
<td>Proposals regarding the revision of recommended procedures regarding transparency</td>
<td>G/SPS/W/220</td>
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<tr>
<td></td>
<td>Chile</td>
<td>Chile's position on the implementation of the principle of transparency in 2008</td>
<td>G/SPS/W/221</td>
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</table>
C. Comments/Proposals regarding monitoring the use of international standards (Article 3.5 and 12.4)

<table>
<thead>
<tr>
<th>Year</th>
<th>Member</th>
<th>Title/Subject</th>
<th>Symbol</th>
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<tr>
<td>2005</td>
<td>Kingdom of Bahrain</td>
<td>Adoption of international Codex standards</td>
<td>G/SPS/GEN/537</td>
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<td>Brazil</td>
<td>Brazilian approval of the new revised text of the IPPC 1997</td>
<td>G/SPS/GEN/600</td>
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<td>China</td>
<td>Monitoring the use of international standards: ISPM 15</td>
<td>G/SPS/GEN/551</td>
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<td>Ecuador</td>
<td>Establishment of the National Codex Alimentarius Committee</td>
<td>G/SPS/GEN/591</td>
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<tr>
<td></td>
<td>European Communities</td>
<td>Implementation of ISPM 15 from 1 March 2005: new requirements for the import of wood packaging material and dunnage for a better protection against the introduction of pests or diseases in the European Communities</td>
<td>G/SPS/GEN/556</td>
</tr>
<tr>
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<td>Mauritius</td>
<td>Implementation of international standards</td>
<td>G/SPS/GEN/547</td>
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<td>Argentina</td>
<td>ISPM 15</td>
<td>G/SPS/GEN/653</td>
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<td>Brazil</td>
<td>Brazilian approval of the new revised text of the IPPC 1997</td>
<td>G/SPS/GEN/696</td>
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<td>2006</td>
<td>Japan</td>
<td>Implementation of ISPM No. 15 as of April 2007</td>
<td>G/SPS/GEN/739</td>
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<td>New Zealand</td>
<td>Relationship between the SPS Committee and the standard-setting bodies</td>
<td>G/SPS/W/206</td>
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<tr>
<td></td>
<td>Sri Lanka</td>
<td>Procedure to monitor the process of international harmonization</td>
<td>G/SPS/W/187</td>
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<tr>
<td>2008</td>
<td>Japan</td>
<td>Relationship between the SPS Committee and Codex, OIE and IPPC</td>
<td>G/SPS/W/226</td>
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<td>2009</td>
<td>Argentina, Brazil, Paraguay and Uruguay</td>
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<td>G/SPS/GEN/940</td>
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<td>European Communities</td>
<td>Relationship between the SPS committee and the three International Standard-Setting Bodies referenced in the SPS Agreement</td>
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<td>Paraguay</td>
<td>Harmonization</td>
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D.1 Information regarding Member's provision of technical assistance and training activities (Article 9)

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### F.1 Comments/Proposals regarding Regionalization (Article 6)

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<td>Implementation of Art. 6 – Experience in establishing and Maintaining &quot;Pest-Free Areas&quot;</td>
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<td>Comments on G/SPS/GEN/640/Rev.1 – Article 6</td>
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<td>Procedures for recognition of pest- or disease-free area or areas of low pest prevalence under Art. 6 – Comparison of standards developed by the ISSBs</td>
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<td>Chile's position on regionalization guidelines for 2008</td>
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<td>Pest free area of Minas Gerais state – <em>Micosphaerella fijiensis</em></td>
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<td>Foot and mouth disease free zone – Brazilian experience on regionalization</td>
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<td>Newcastle disease – Brazilian experience in certifying disease free flocks</td>
<td>G/SPS/GEN/608</td>
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<td>Classical swine fever – Brazilian experience in regionalization</td>
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<td>Update on developments in Canada regarding Bovine Spongiform Encephalopathy (BSE)</td>
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<td>Notification of recognition of pest- and disease-free zones - Regionalization</td>
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<td>Status of the national classical swine fever eradication programme in Nicaragua</td>
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<td>Nicaragua initiates brucellosis – and tuberculosis - free certification for farms</td>
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<td>Grains, fruits etc. – FMD</td>
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### G. Comments/proposals regarding Monitoring Implementation of the Agreement (Articles 12.1 and 12.2)—Specific trade concerns

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### H. Review of the Agreement

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### J. Implementation of the SPS Agreement

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K. Other

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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.\(^1\) 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.\(^2\)

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.

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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\(^1\) G/SPS/GEN/766; specific trade concern no. 219.
\(^2\) 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\(^3\) 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".

\(^3\) 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.