



WORLD TRADE
ORGANIZATION

SPS Transparency Workshop

30-31 October 2017



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Session 1: Transparency provisions of the SPS Agreement

Transparency is a foundational principle of WTO



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

Key Provisions: SPS Agreement



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



Why Transparency?



- Regulatory requirements

- changes may affect market access

- Enhances clarity, predictability

- facilitates trade & reduces trade disruptions/costs

- Makes business environment predictable & stable

- Gives businesses a clearer view of future opportunities: encourages investment

- Advance warnings

- more time to adapt

- Improves accountability & responsiveness of regulatory system

- seek info, consult, comment





Transparency obligations

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

SPS Article 7, Annex B

G/SPS/7/Rev.3



SPS Transparency: reference documents

- SPS Agreement: Article 7 & Annex B
- SPS Committee Decision: G/SPS/7/Rev.3
- Major Decisions and Documents
- Procedural step-by-step manual for NNA/NEP – *new 2017 revision*

ANNEX B
TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

Publication of regulations

1. Members shall ensure that all sanitary and phytosanitary regulations¹ 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:

- any sanitary or phytosanitary regulations adopted or proposed within its territory;
- any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
- risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
- 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 terms 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 nationals² of the Member concerned.

Notification procedures

5. Whenever an international rule of a proposed sanitary or phytosanitary measure is based on an international standard, guideline or regulation of the WTO, or on any other international standard, guideline or regulation of other Members, Members shall:

¹Sanitary and phytosanitary measures such as:

²When "nationals" are referred to in the Agreement, the term "nationals" shall mean persons, natural or legal persons, who are citizens or residents of the country concerned.

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8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is inconsistent, or has the potential to be inconsistent, with the SPS Agreement, it may request 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

- 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.
- 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.
- 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.

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G/SPS/Rev.3
20 June 2008
(19-20)

Committee on Sanitary and Phytosanitary Measures

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

AS OF 1 DECEMBER 2008

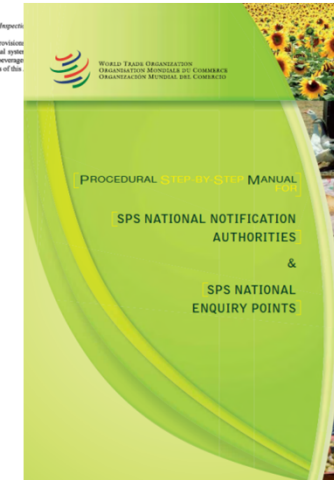
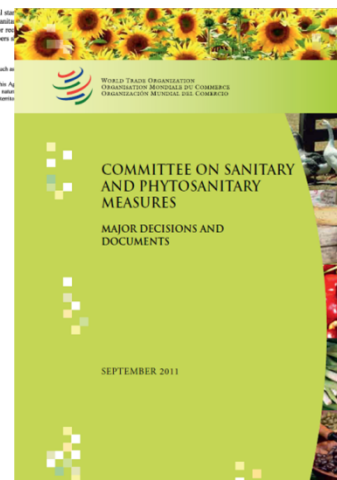
EXPLANATION

- The new transparency in the context of the World Trade Organization (WTO) is used to signify use of the fundamental principles of its agreement: the aim is to achieve a greater degree of clarity, predictability and uniformity 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.¹ Transparency under the SPS Agreement also includes answering reasonable questions, and publishing regulations.
- These procedures have been developed to assist Members fulfil their transparency obligations under Article 7 and Annex B of the SPS Agreement regarding the notification of SPS regulations, answering information requests under the National Enquiry Point system and publishing regulations.
- These guidelines do not add to nor detract from the existing rights and obligations of Members under the SPS Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the SPS Agreement itself.

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

- 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 1 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.

The SPS Committee adopted the revised Recommended Procedures for the implementation of the SPS Agreement (Article 7) on 10 May 2008. The revised procedures were adopted to make the process by 10 May 2008. No later than the next notification to the SPS Information Management System, Members are to publish and report on SPS notifications. These procedures, which entered into effect on 1 December 2008, are intended to assist Members in their implementation of the SPS Agreement and to ensure that the information provided is clear, complete and consistent with the SPS Agreement. The procedures also provide a framework for the implementation of the SPS Agreement and to ensure that the information provided is clear, complete and consistent with the SPS Agreement. The procedures also provide a framework for the implementation of the SPS Agreement and to ensure that the information provided is clear, complete and consistent with the SPS Agreement.





Obligations





1. Notification of draft regulations

What to notify?

- New or modified regulation

+

- No existing international standard or different than the international standard

+

- Significant impact on trade (restricting or facilitating)

- *Same as international standard (G/SPS/7/Rev.3)*



Notify



1. Notification of draft regulations When to notify?

Regular
notifications

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

60-day comment period

Emergency
measures

IMMEDIATELY!



1. Notification of draft regulations: What formats?

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

**Read in conjunction with original notification.*



1. Notification of draft regulations: How to access translations of regulations?

- Upon request, **developed** countries to provide regulation or its summary in **English, French, or Spanish**
- Members **encouraged** to share unofficial translations with each other – supplement format



1. Notification of draft regulations: Where to find the notification formats?

- G/SPS/7/Rev.3 – SPS Committee Recommended Procedures on Transparency
- WTO website – SPS Transparency toolkit
 - www.wto.org/spstransparency
- SPS Notification Submission System (SPS NSS)
 - <https://nss.wto.org/spsmembers/>



1. Notification of draft regulations: How to share text of draft regulations?

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



1. Notification of draft regulations: Recommended Procedures

G/SPS/7/Rev.3

- Notify measures based on international standards
- Default choice – 60 day comment period
- Identify date of publication
- Date of entry into force – 6 months after date of publication



1. Notification of draft regulations: What else to notify?

- **Recognition of equivalence:** measure recognized, products covered (G/SPS/7/Rev.3 – specific format, G/SPS/19/Rev.2 – implementation of Article 4)
- **Special and differential treatment:** difficulties with notified measure (G/SPS/33/Rev.1 – specific format)
- **Regionalization:** request and/or determination (G/SPS/48 – no specific format)



2. Designation of NNA : Who notifies?

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



2. Designation of NNA : tasks of the NNA?

- Notifies other Members through WTO at an early stage (or immediately for emergency measures) to allow for comments/amendments
- Provides copies of proposed regulations upon request
- Ensures that comments are handled correctly



2. Designation of NNA: Where should notifications be sent?

Submission by NNA

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



Central Registry of Notifications (CRN)



Dissemination of the notification



Central Registry of Notifications (CRN)

Processing (CRN – WTO Secretariat)

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



Dissemination of the notification

Dissemination

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

3. Establishment of Enquiry Point



- Provides answers to all **reasonable questions** from interested Members and relevant documentation
 - *Can be same as NNA*
 - *Can have more than one but clearly define responsibilities*



3. Establishment of Enquiry Point: **All reasonable questions?**

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

- Reply within 5 working days, or
- Provide an estimate of time for the reply



EP vs. NNA – which statement is true?

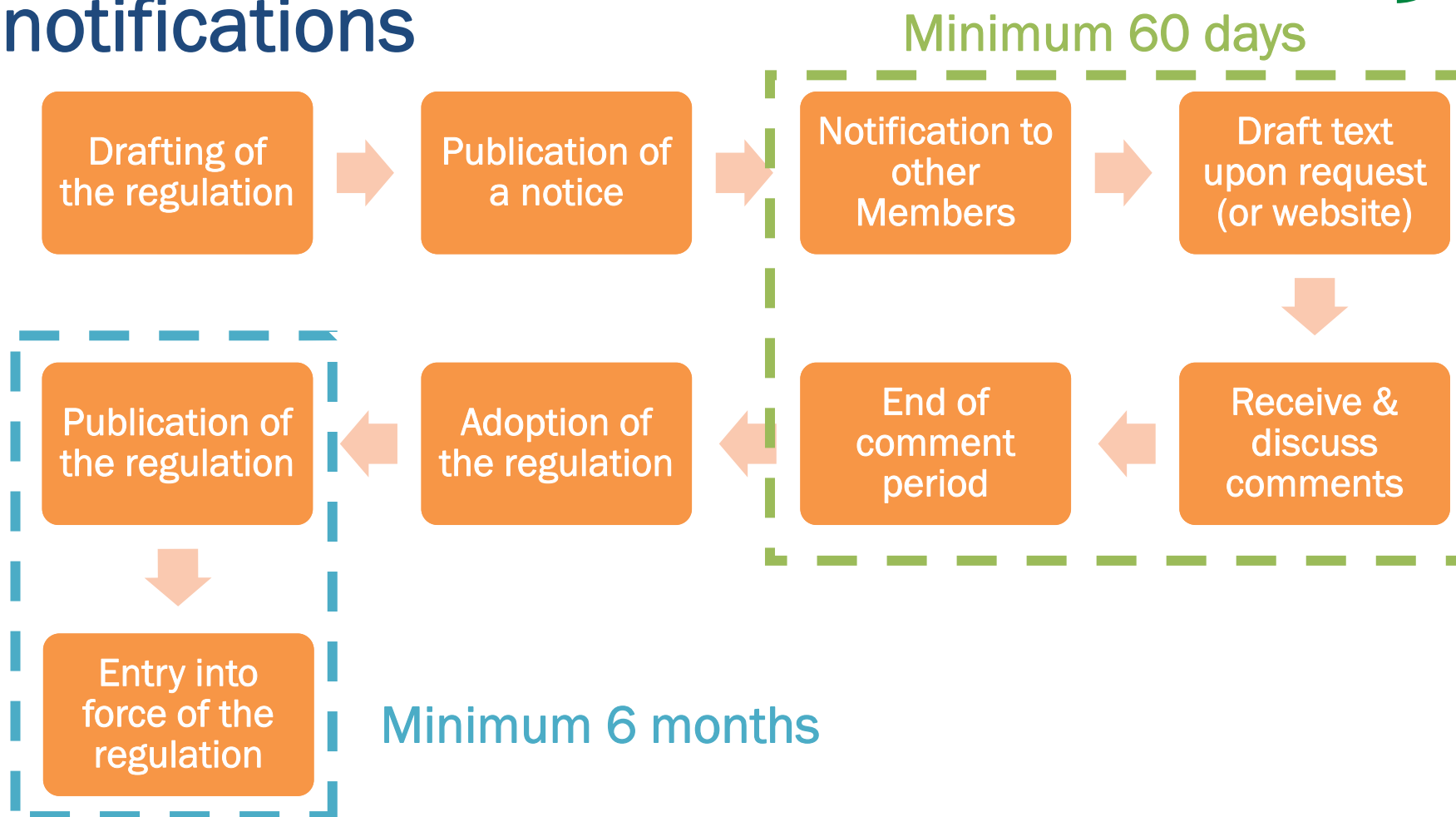
- The submission of notifications, provision of answers to all reasonable questions and the provision of relevant documents is the responsibility of the enquiry point
- The implementation of the provisions concerning notification procedures falls under the responsibility of a single central government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



4. Publication of regulations

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

Transparency timelines for SPS notifications



Beyond obligations - EP or NNA could...



Track/ filter/disseminate
SPS documents and
notifications to interested
parties

Alert other government
agencies, private sector,
other stakeholders of
important changes

Coordinate/submit
comments on notifications
of concern to trading
partners; follow up

Lead/facilitate/participate
in national SPS
coordination body

Participate in SPS
Committee work
(information exchange,
specific trade concerns)

Raise awareness at the
national level; facilitate
capacity building; seek
assistance



EP/ NNA

Geneva
mission

OIE, Codex,
and IPPC

Other
government
bureaus

WTO
Secretariat

Private
sector



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THANK YOU!

SPS Gateway

<http://www.wto.org/sps>