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Committee on Sanitary and Phytosanitary Measures

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**FOURTH REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT
ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES**

THE TRANSPARENCY OBLIGATIONS OF THE SPS AGREEMENT (ARTICLE 7 AND ANNEX B)

Submission by the European Union

The following communication, received on 16 December 2013, is being circulated at the request of the Delegation of the European Union.

1 INTRODUCTION

1.1. As part of the Fourth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), pursuant to the provisions of Article 12.7 of the Agreement, the Secretariat has invited Members to identify issues they wish to be considered in the Review by 17 December 2013.

1.2. The European Union has identified transparency as an issue that merits the attention of the SPS Committee.

1.3. Transparency is one of the fundamental principles of the WTO agreements. It aims to achieve a greater degree of clarity, predictability and reliability of information between trading partners by making Members' trade policies more widely known. By implementing actions to enhance transparency, trading partners are alerted to, and may influence, measures that other Members plan to introduce to bring their trade policies to life.

1.4. The principle of transparency can be upheld in a number of ways.

1.5. For the purposes of the 4th Review of the SPS Agreement, the European Union would like to emphasise the principle of transparency with regard to notifications: the practice whereby WTO Members are informed about new or modified "regulations" or "measures" (laws, decrees, ordinances etc.) applied to protect human, animal or plant life or health. This is particularly important in those cases where such regulations are expected to have a significant effect on trade.

1.6. Since 1995, there have been a total of around 16,000 notifications submitted under the SPS Agreement. An upward trend in these figures has been seen in recent years. It goes without saying, that the quality and completeness of these notifications are crucial to ensure full transparency.

1.7. A close examination of the notifications submitted to date reveals that while the number of notifications (quantity) is on the increase, the content of these same notifications in terms of the information provided, the comment period allowed, the availability of notified legal texts and other quality parameters has not improved to the same degree.

1.8. A related area that merits closer examination is the availability, at any given time, of all regulations or measures adopted by WTO Members. Insufficient access to such information poses a major obstacle to trade, particularly for developing countries.

1.9. Transparency provisions in relation to the WTO SPS Agreement have already been discussed on previous occasions. They were revisited during the 2nd Review of the Agreement in 2005 with a number of recommendations being adopted at that time.

1.10. On 30 May 2008, the Committee also adopted revised "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement" which took effect as of 1 December 2008 and can be found under G/SPS/7/Rev.3.

1.11. These procedures, while not creating legal obligations, are meant to facilitate the implementation of transparency provisions. They have become the reference of best practice among Members and in principle, are followed by a vast majority.

1.12. Given the importance of transparency and the usefulness of having more Members follow these recommended procedures, it is considered to be useful, five years after their entry into force, to look at these procedures again, to assess how effective they really are and whether areas for improvement exist in the implementation of the transparency provisions.

2 PROPOSAL

2.1. The Committee should review the implementation of the transparency provisions of the SPS Agreement (Article 7 and Annex B), including - where necessary - further developing the above mentioned "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement".
