

**IMPROVING THE OPERATION OF THE SPS AGREEMENT'S
NOTIFICATION PROVISIONS**

Submission by the United States

The following communication was received from the United States on 29 May 1998.

1. Article 7 and Annex B of the SPS Agreement require Members to notify a proposed sanitary and phytosanitary regulation, if it is not substantially the same as the content of an international standard, guideline or recommendation or if an international standard, guideline or recommendation does not exist, and if the regulation may have a significant impact on trade of other Members. Members agreed to designate a single central government authority on the national level as responsible for meeting this obligation, in accordance with paragraphs 5, 6, 7 and 8 of Annex B. Members also committed to ensure that one Enquiry Point exists which is responsible for the provision of answers to all reasonable questions from interested Members.

Factors limiting the effective implementation of Article 7 and Annex B

2. Several Members have noted areas where the transparency provisions of the Agreement have not yet been fully implemented and where notification procedures are not operating as expected. Variations in the quality and content of the information submitted by Members in their notifications, short comment periods, and delays in responding to requests for documentation are recurrent problems limiting the effective implementation of the transparency provisions. The United States urges all Members to review the operation of their notification points in the light of the Committee's recommended notification procedures (G/SPS/7) and make every effort to ensure that those procedures are being implemented as efficiently as possible.

Suggested actions

3. In G/SPS/GEN/64, the European Community suggested certain revisions to the Committee's recommended notification procedures. The United States supports the proposal to review the current recommendations, with a view to identifying any improvements which might facilitate the effective operation of the notification process. The United States also believes it would be useful to consider other steps that might be taken in this area. Such steps might include efforts to:

- (a) Facilitate the building of capacity needed for the efficient operation of Members Enquiry Points and National Notification Authorities;
- (b) Expand the electronic transmission of notifications and texts of proposed measures between Members; and
- (c) Facilitate access of all Members to informal translations of the texts of notified measures, where the original text is not in a WTO language.

Capacity building

4. All Members have an interest in the smooth and efficient operation of the Agreement's notification procedures. Members benefit from being aware of all relevant scientific and technical information relating to proposed measures and the health risks they address and, as a consequence this may improve their ability to avoid potential trade problems. In addition, the communications established between Members' Notification Authorities and Enquiry Points may allow Members to more efficiently identify and adapt to proposed sanitary and phytosanitary measures in their principal export markets.

5. The United States believes that Members, particularly developing countries, will benefit from technical cooperation which specifically addresses steps that may be taken to improve the efficiency of the Agreement's notification procedures, and has suggested regional workshops to facilitate such cooperation (G/SPS/GEN/37). It is our understanding that WTO-sponsored workshops to date have generally focused on the basic substantive provisions of the SPS Agreement, rather than on the operational and administrative aspects associated with carrying out notification and enquiry point functions. The upcoming WTO-sponsored workshop to be held in the Philippines 29 June 1998-2 July 1998 will incorporate this element and may provide a basis for determining Member needs and identifying areas for future cooperation.

Electronic transmission of documents reduces administrative burdens, improves timeliness and facilitates science-based rule-making

6. WTO Members are interested in having a notification system that allows Members to meet their transparency obligations and facilitates the development of plant, animal and human health regulations that reflect the best scientific information available. The rapid development of modern telecommunications and information technologies provides tremendous new opportunities to advance these goals. Ideally, Members' Enquiry Points will have access to computers, publication software, Internet access, an established Web site and the capacity to transmit notifications and text electronically.

7. As a first step, it would be useful to survey Enquiry Points to determine how they function and what steps need to be taken to facilitate electronic transmission of documents between Members. A survey, similar to that shown in Attachment A, could facilitate efforts to better target technical assistance and training. Even without the survey results, the simple addition of e-mail addresses for all Enquiry Points would greatly facilitate electronic transmission of documents. It is encouraging to note that already 23 Members' Enquiry Points include e-mail addresses.

8. The United States notified 35 SPS measures in 1997 and responded to over 240 specific requests by other Members for copies of the relevant texts. The US Enquiry Point normally responds to requests for full text by either fax or express postal service. Increasingly the US Enquiry Point has been able to respond to requests for full text by sending electronic copies, both in Adobe PDF and in "ascii" text. Most governments prefer to receive text via e-mail, where the capacity exists, because it facilitates the timely distribution of notified texts to interested governmental and non-governmental parties.

Posting translations of notified texts and other relevant documents on the Internet (Translation Bank)

9. As discussed during the Committee's 12-13 March 1998 meeting, when lengthy documents identified in the notification process are originally in a non-WTO language, delays in translation often make it extremely difficult to respond within the time period specified in the notification. A partial solution to this problem might be to share Members' "unofficial translations" of notified measures on an Internet Web-site. Participating Members could notify the Secretariat of their translations and their Web-site location, and the WTO might make these unofficial translations available to all Members. In order to facilitate all Members' understanding of the likely health and trade effects of notified measures, Members may also wish to post their comments on such measures on the Internet.

ATTACHMENT A

Enquiry Point Questionnaire

Country:
Enquiry Point:
Name:
Government Agency:
Address:
Telephone:
Fax:
E-mail Address:

(Name of individual answering the questionnaire):

I. Does your government publish domestically all proposed sanitary and phytosanitary regulations?

Yes _____ No _____

1. If yes, where are they published (e.g., Newspaper, Federal Register, Official Journal, etc.)?

2. Are they accessible via the Internet?

Yes _____ No _____

II. How many WTO SPS notifications has your government made to the World Trade Organization?

1995 _____ 1996 _____ 1997 _____

1. How many requests have been received from another WTO Member for copies of the full text of a specific SPS notification?

	1995	1996	1997
Total number of requests	_____	_____	_____
Number of countries	_____	_____	_____

2. When a translation of a relevant document, or a translated summary of that document, exists or is planned, do you indicate this fact on the notification form?

3. What was the average length of time between receipt of an official request from another WTO Member for a full text of a proposed regulation and the actual response to the request? (days, weeks or months)

4. Do you have access to electronic facilities for the transmission/reception of documents?

Yes _____ No _____

(a) If not, do you have plans to establish such facilities and when?

(b) Would you require technical assistance in this respect?

III. Do you distribute copies of notifications of other WTO Members to interested parties in your country upon request?

Yes _____ No _____

1. If yes to whom:

Government agencies _____ Private sector _____

2. How do you distribute copies of these notifications? (Check those which apply)

Mail _____ Fax _____

E-mail _____ Web-site _____

IV. Do you also provide copies of the full text of proposed foreign government regulations to domestic interest groups upon request?

Yes _____ N _____

V. How many official comments has your government made on specific WTO SPS notifications?

1995 _____ 1996 _____ 1997 _____

1. How were these comments transmitted to the WTO Member proposing the regulation? (Check those which apply)

(a) Directly to the Member's Enquiry Point _____

(b) Via the WTO Member's Embassy _____

(c) Via your Embassy in the WTO Member country _____

(d) During a meeting of the WTO SPS Committee _____

VI. General comments/suggestions:
