

**Committee on Sanitary and Phytosanitary Measures**

**ANALYSIS OF REPLIES TO THE QUESTIONNAIRE ON THE OPERATION OF  
ENQUIRY POINTS AND NATIONAL NOTIFICATION AUTHORITIES**

Note by the Secretariat<sup>1</sup>

**I. INTRODUCTION**

1. The SPS Committee will hold its third special meeting on transparency provisions in October 2007. The first two special meetings were held in November 1999 and October 2003.<sup>2</sup>
2. Members have underlined the need to lay the necessary groundwork in advance of this meeting with a view to making it a results-oriented and problem-solving workshop. It is expected that the meeting will be attended by a large number developing and least-developed country representatives thanks to the special funding arrangements. Therefore, it will be a good opportunity not only to exchange views but also to address and resolve more directly the concerns of Members with respect to the implementation of transparency obligations.
3. To help prepare the special meeting, the SPS Committee asked the Secretariat to circulate a questionnaire regarding the difficulties Members face in the effective operation of Enquiry Points (EPs) and National Notification Authorities (NNAs). The Secretariat distributed the questionnaire in December 2006, with a deadline for replies by the end of January 2007.<sup>3</sup>
4. This Note provides an analysis of the replies received to-date and highlights some notable issues. The replies themselves have not been circulated as WTO documents but they can be consulted through the WTO Secretariat.
5. Members are invited to consider the main issues emerging from the replies during the upcoming informal meeting on transparency to be held on 27 February 2007, with a view to providing inputs for the special meeting in October. If the Secretariat receives a significant number of additional replies to the Questionnaire and/or if the Committee deems it necessary, a revision of this Note will be prepared for the subsequent meeting of the Committee.

**II. OVERVIEW OF REPLIES TO THE QUESTIONNAIRE**

6. A total of 50 replies to the questionnaire were received from Members and one Observer.<sup>4</sup> As can be seen in Figure 1, three of these replies came from least-developed country Members, 34 from developing and 13 from developed country Members.

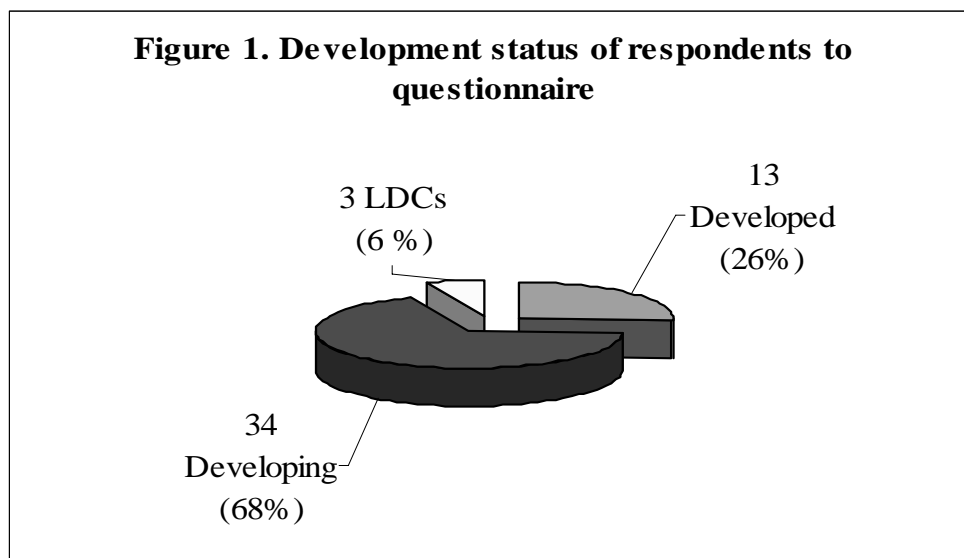
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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

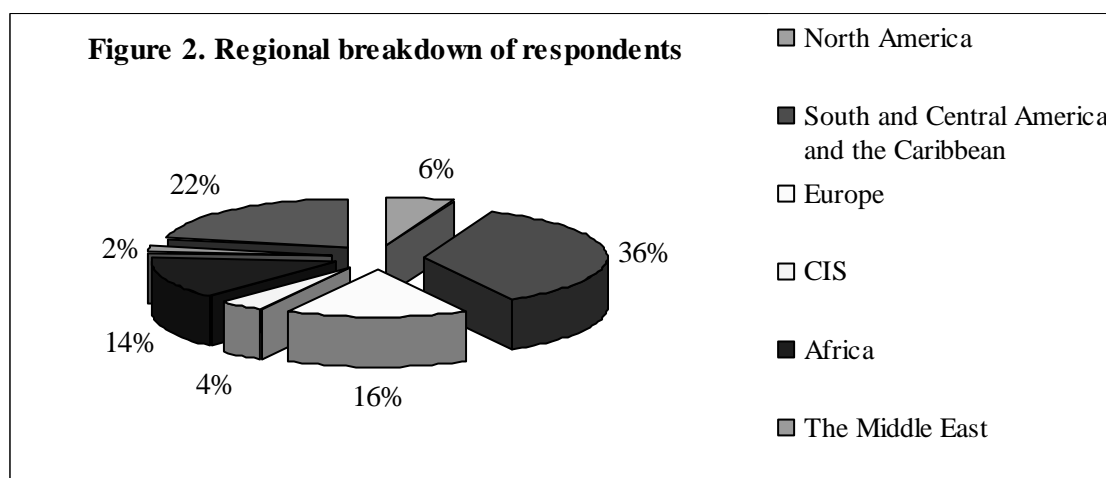
<sup>2</sup> The reports of these meetings can be found in G/SPS/R/16 and G/SPS/R/32 respectively.

<sup>3</sup> The questionnaire was circulated as G/SPS/W/103/Rev.2.

<sup>4</sup> See Attachment 1 for a full list of respondents.



7. In terms of regional breakdown, as can be seen in Figure 2, at least one reply was received from each of the seven regional categories, some of which contain more Members than others. More specifically, three replies were received from North America, 18 from South and Central America and the Caribbean, eight from Europe, two from the Commonwealth of Independent States (CIS), seven from Africa, one from the Middle East, and 11 from Asia.



8. Overall, the issues that stand out can be summarized as follows:
- (a) There is a strong preference for enhanced interaction among EPs and NNAs for the purpose of exchanging information and experiences more regularly and directly. This could be accomplished through the creation of a more close-knit "community", possibly using the Internet, and/or through "twinning" arrangements and visits.

- (b) There is a strong interest in improving the services of EPs and NNAs, both in submitting notifications and in managing and responding to incoming notifications. To this effect, respondents are in search of best-practices and well-established procedures that work, along with any accompanying hardware and software tools.
- (c) There is a high level of information flow between the WTO and most EPs/NNAs, even if there is room for improvement. The challenge sometimes seems to be with how to utilize the information available for specific purposes.
- (d) Respondents underline the need to raise awareness regarding the benefits as well as obligations arising from transparency provisions, both at the political level and with the private sector.
- (e) In terms of notifications procedure, some respondents point to difficulties and delays in obtaining full texts or summaries of notified measures and would like to see the development of a procedure that might address this problem.
- (f) A large majority of respondents prefer that Members notify "some" or "all" new or changed regulations, whether or not they are based on an international standard. At the same time, some respondents point out the voluntary nature of such a possible step while others warn against generating an excessive number of notifications when Members are already struggling to keep up with current volumes.
- (g) About a third of EPs do not seem to be informed regularly of the development or adoption of international standards at Codex, the IPPC or the OIE. The Committee may wish to take a closer look at this problem and identify any steps to enhance information flow among the WTO EPs/NNAs, the three sisters, and their national contact points.
- (h) With respect to the provision of HS codes on notifications, the current practice seems to be very mixed while most respondents seem to favour more regular provision of HS codes, albeit with some caution.

### III. DETAILS OF REPLIES TO THE QUESTIONNAIRE

9. The questionnaire included 15 sections with a total of 43 questions, some of which invited further comment. This section looks more closely at replies provided under each of the fifteen sections and is best read in conjunction with the questionnaire itself (G/SPS/W/103/Rev.2).

10. Some of the questions required the respondents to choose out of a predetermined set of answers, which was not always possible for the respondents due to their specific situations, i.e. multiple EPs, different procedures for food safety, animal health and plant health, EC member States, etc. Some questions were open-ended. Where feasible, a statistical analysis has been made of the 50 sets of replies received and the main points emerging from the comments summarized.

11. Under **Section 1 on Contact Details**, quite a few respondents provided modifications to their EP and NNA contact information contained in the most recent Secretariat documents (G/SPS/ENQ/20 and G/SPS/NNA/10, both dated October 2006). Members should regularly inform the Secretariat of changes to their EPs and NNAs.

12. Under **Section 2 on Enquiry Points and National Notification Authorities**, 25 respondents indicated that their EPs and NNAs are separate agencies while 19 others indicated that they are under the same agency. The remaining six respondents are EC member States.<sup>5</sup>

13. Under **Sections 3 and 4 on Staff and Equipment – Enquiry Point/National Notification Authority**, it has not been possible to come up with an average figure as to how many staff dedicate their time serving these two entities. Some respondents have highlighted that it is one of many tasks of the one or two staff responsible for this task while others have provided names of institutions. In terms of computer facilities, e-mail and word processor seem to be commonly used by all respondents while internet use seems to be slightly less common (around 70 per cent). Up to half of the respondents have indicated their use of a database.

14. Under **Section 5 on Notifications**, 34 respondents have indicated that the submission of notifications is part of a regular procedure for developing national SPS regulations while 12 others have indicated that it is not. (Four did not reply). As for the comment period provided on notifications, 23 respondents (or half of all those replying to this question) have confirmed that it is determined by national regulatory procedures while some of the others have referred to the 60-day comment period provided for in the relevant Committee decision (G/SPS/7/Rev.2).

15. With respect to the provision of **HS codes** on notifications, the current practice seems to be very mixed. However, most respondents seem to favour more regular provision of HS codes, albeit with some caution. Five respondents have indicated that they already provide HS codes on all of their notifications, 13 have indicated that they sometimes provide the HS codes, and 17 have indicated that they currently do not provide HS codes but could easily do so if requested. Another five have indicated that they could not easily provide HS codes. When asked whether they would find it useful if other Members provided HS codes on their notifications, 32 respondents have replied in the affirmative and three in the negative with the others providing either no answer or a nuanced one. Some have pointed out the difficulty of providing HS codes while notifying horizontal measures affecting additives or packaging, others have indicated their concerns with increased workload and yet others have indicated their preference for more precise description of coverage in words or the provision of ICS codes instead.

16. Under **Section 6 on International Standards**, 33 respondents have indicated that either the EP or the NNA (or both) is regularly informed of the development or adoption of international standards by Codex, OIE, and the IPPC. For 16 others or about a third of all respondents, this seems not to be the case. The Committee may wish to take a closer look at this question and identify steps to enhance information flow among the WTO EPs/NNAs, the three sisters, and their national contact points.

17. With respect to notifications, ten respondents have indicated that they only notify those regulations that are not based on **international standards**, 24 have indicated that they notify all new or changed regulations, whether or not they are based on an international standard and ten others have indicated that they notify some regulations that are based on international standards, if they are of particular interest to trading partners. On the other hand, 38 respondents have shown preference for the notification by other Members of all new or changed regulations, whether or not they are based on an international standard or not and two others have shown preference for the notification of some regulations that are based on an international standard, if they are of particular interest to

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<sup>5</sup> The European Communities had provided further information on the operational procedures of the European Communities and its member States regarding transparency obligations under the SPS Agreement in document G/SPS/GEN/456.

trading partners. Eight respondents have specifically indicated a preference for notifying "only" those regulations that are not based on an international standard. These respondents note the need to avoid an excessive number of notifications and to first ensure that Members comply with their obligations under Annex B. The Committee may wish to examine this question further.

18. Under **Section 7 on Handling Requests for Full Texts** of proposed and adopted regulations, 19 respondents have indicated that it is the EP, seven have indicated that it is the NNA and 22 others have indicated that it is both which have this responsibility. In terms of having a complete inventory of proposed and adopted sanitary and phytosanitary regulations, 18 have indicated that their EP has an inventory, three have indicated that their NNA have it and nine have indicated that both their EP and NNA have an inventory. Fifteen other respondents have indicated that they do not keep an inventory. As for copies of full texts of proposed and adopted regulations, 16 have indicated that their EP keeps them, five have indicated that their NNA keeps them and 14 others have indicated that both entities keep them. On the other hand, 12 respondents have indicated that neither the EP nor the NNA keeps them.

19. The specific sub-question with respect to providing summaries of SPS measures in one of the official languages of the WTO was not applicable to many respondents as their working language was one of the three official languages of the WTO. However, six respondents indicated that they could not provide such summaries. Considering the various comments made on the difficulties in obtaining full texts or summaries of notified measures, the Committee may wish to look into ways of facilitating access to these.

20. Under **Section 8 on Handling other Requests for Information**, 28 respondents have indicated that questions addressed to the EP are answered directly by the EP. With respect to the time that it may take to respond to queries, the period indicated by the respondents varies from one to 60 days, with a very rough estimate of about a week on average.

21. Under **Section 9 on Interagency Communication and Coordination**, EPs of 44 respondents and NNAs of 40 respondents have been described as having regular contact with officials in the relevant ministries.

22. Under **Section 10 on SPS Documents/Committee Meetings**, almost all respondents have indicated that their EP receives other Members' SPS notifications. Thirty-six have indicated that their EP receives the monthly summary of notifications (which seem to be highly appreciated by Members) and 40 have indicated that they receive copies of other SPS documents. Twenty-one EP representatives follow the work of the SPS Committee by attending the SPS Committee meetings while 18 others follow it through other means. Eight EPs seem not to be following the Committee at all. As for contacts with EP of other Members, 21 have indicated that they have regular contact while 24 have indicated that they do not. In ten cases, either the EP or the NNA did not have a copy of the WTO Handbook on Transparency. Overall, in light of these results and of comments complementing the replies, it would seem that there is a good level of information flow even if there is room for improvement. The challenge seems to be to utilize the information available for specific purposes. The complementary comments indicate a strong preference for establishing stronger links among EPs/NNAs, either through the creation of a community, possibly using an internet forum and/or through establishing twinning arrangements.

23. Under **Section 11 on Other Services**, 15 respondents have indicated that their EP regularly provides information about other countries' import requirements to domestic producers/exporters while 21 others have indicated that they do so when requested. For 13 others, this service does not seem to be provided. As for providing comments on other Members' SPS notifications, only 20 EPs seem to be involved in this exercise. With respect to the provision of information about national import requirements to national producers/importers/experts, 14 EPs are described as doing it

regularly, 24 upon request and nine not at all. In about half the cases, the EP is described as providing other services, such as serving as a contact point for the Codex, OIE or IPPC.

24. Under **Section 12 on Technical Assistance**, 15 respondents, including a number of developing countries, have indicated that they have provided technical assistance to EPs and/or NNAs. A total of 29 respondents, including developing countries and one LDC, have indicated their willingness to provide technical assistance. With respect to identifying specific technical assistance needs, 24 respondents have indicated that they have done so while an equal number have not. In terms of requesting technical assistance, 11 have requested and received technical assistance, four have requested but not received it, six have received but not requested it and 27 (including 13 developed countries) have neither requested nor received assistance. Expectations from technical assistance include the following: how to notify and how to manage incoming notifications, guidance on best-practices, visits to other EPs, twinning with other EPs, enhanced intra-EP communication, exchange of experiences, prior needs assessment, IT tools such as computers and databases, awareness-raising, clarification of SPS vs. TBT measures, and risk analysis.

25. Under **Section 13 on Special and Differential Treatment**, 42 respondents have indicated that they are aware of the Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members (G/SPS/33). As for the reasons why no notifications had been received under the new procedure, 28 respondents have indicated that developing country Members are unable to screen incoming notifications quickly enough, while another 12 have indicated that developing country Members are using other channels to request special and differential treatment. Four suggested that the procedure is being used but not being notified.

26. Under **Section 14 on Equivalence**, 42 respondents have indicated that they are aware of the Committee's Decision on Notification of Determination of the Recognition of Equivalence (G/SPS/7/Rev.2/Add.1). With respect to the possible reasons for the lack of any notification of determination of equivalence, the replies are very mixed, and not limited to the options indicated in the questionnaire. Twelve respondents suggested that the Decision is being used but not being notified, 19 are of the view that Members are using mechanisms other than equivalence to obtain market access and 17 believe that Members are unable to reach agreement on the recognition of equivalence in practice. A number of respondents make reference to regional trade agreements as facilitating equivalence.

**ATTACHMENT I**  
**LIST OF RESPONDENTS TO THE QUESTIONNAIRE**

1	Argentina
2	Armenia
3	Australia
4	Austria
5	Belarus (Observer)
6	Belize
7	Benin
8	Brazil
9	Cameroon
10	Canada
11	Chile
12	China
13	Colombia
14	Costa Rica
15	Cuba
16	Czech Republic
17	Dominica
18	Dominican Republic
19	Egypt
20	El Salvador
21	European Communities
22	Former Yugoslav Republic of Macedonia
23	Germany
24	Guatemala
25	Guyana
26	Hong Kong, China
27	Italy
28	Japan
29	Kenya
30	Korea, Republic of
31	Macao, China
32	Mauritius
33	Mexico
34	Morocco
35	Nepal
36	New Zealand
37	Niger
38	Pakistan
39	Panama
40	Paraguay
41	Peru
42	Philippines
43	Saint Kitts and Nevis
44	Saint Lucia
45	Slovak Republic
46	Spain
47	Chinese Taipei
48	Trinidad and Tobago
49	United States
50	Unidentified Golf Cooperation Council Member