

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 Secretariat¹

Revision

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 2003.²

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 2007.³

4. The first Note circulated by the Secretariat provided an analysis of the 50 replies received by mid-February and highlighted some notable issues.⁴ The Committee held a preliminary discussion of this Note during its informal meeting on 27 February 2007.⁵ Those Members who had not responded to the questionnaire were invited to do so in order to enable the Secretariat to prepare a revision of the Note in advance of the subsequent meeting of the Committee.

5. This Revision incorporates the eight additional replies that were received by mid-June. Overall, the current results reinforce the main tendencies that were evident in the first version of this Note. More details are provided in the sections below.

6. The replies themselves have not been circulated as WTO documents but they can be consulted either electronically through the SPS section of the WTO Members' Website (as agreed to by the Committee during its meeting in February 2007) or in hard copy through the WTO Secretariat.

¹ 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.

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

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

⁴ The Note was circulated as G/SPS/GEN/751.

⁵ For a summary of that discussion, please see section IV of document G/SPS/R/44.

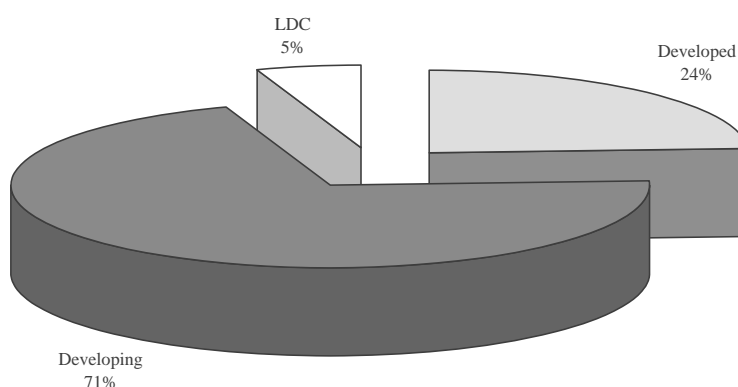
7. Members are invited to consider the main issues emerging from the replies during the upcoming informal meeting on transparency to be held on 26 June 2007, with a view to providing inputs for the special meeting on transparency scheduled for 15 October 2007.

8. It is hoped that the process of filling out the questionnaire has also led to further communication and reflections at the national level among relevant agencies, possibly going beyond the issues that are specifically covered in the questionnaire.

II. OVERVIEW OF REPLIES TO THE QUESTIONNAIRE

9. A total of 58 replies to the questionnaire were received from Members and one Observer.⁶ As can be seen in Figure 1, three of these replies came from least-developed country Members, 41 from developing and 14 from developed country Members.

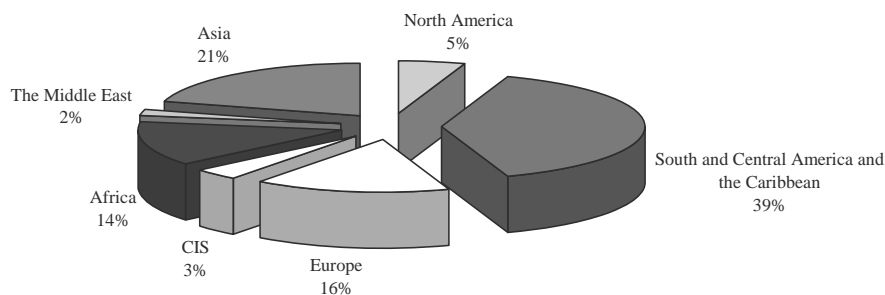
Figure 1. Development status of respondents to questionnaire



10. 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, 23 from South and Central America and the Caribbean, nine from Europe, two from the Commonwealth of Independent States (CIS), eight from Africa, one from the Middle East, and 12 from Asia.

⁶ See Attachment 1 for a full list of respondents.

Figure 2. Regional breakdown of respondents



11. 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 or mentoring 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.
- (i) As for the reasons behind the absence of any notifications under the Procedure to Enhance Transparency of Special and Differential Treatment adopted by the Committee (G/SPS/33), a significant number of respondents point to the difficulties developing country Members face in screening notifications, an issue the Committee may wish to dwell on further.

III. DETAILS OF REPLIES TO THE QUESTIONNAIRE

12. 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).

13. Some of the questions required the respondents to choose from 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 58 sets of replies received and the main points emerging from the comments summarized.

14. 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.

15. Under **Section 2 on Enquiry Points and National Notification Authorities**, 29 respondents indicate that their EPs and NNAs are separate agencies while 22 others indicate that they are under the same agency. The remaining seven respondents are EC member States.⁷

16. 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 to serving these two entities. Some respondents highlight that it is one of many tasks of the one or two staff responsible for Enquiry Point and/or Notification Authority, while others provide 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). More than half of the respondents indicate their use of a database.

17. Under **Section 5 on Notifications**, 40 respondents indicate that the submission of notifications is part of their regular procedure for developing national SPS regulations while 13 others indicate that it is not. As for the comment period provided on notifications, 26 respondents confirm

⁷ The European Communities 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.

that it is determined by national regulatory procedures while some of the others refer to the 60-day comment period provided for in the relevant Committee decision (G/SPS/7/Rev.2).

18. 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. Seven respondents indicate that they already provide HS codes on all of their notifications, 15 indicate that they sometimes provide the HS codes, and twenty indicate that they currently do not provide HS codes but could easily do so if requested. Another seven indicate 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, 38 respondents reply in the affirmative and four in the negative with the others providing either no answer or a nuanced one. Some point out the difficulty of providing HS codes while notifying horizontal measures affecting additives or packaging, others indicate their concerns with increased workload and yet others indicate their preference for more precise description of coverage in words or the provision of ICS codes instead. The Committee may wish to take a closer look at this issue.

19. Under **Section 6 on International Standards**, 41 respondents indicate 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, 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 referenced standard-setting bodies, and their national contact points.

20. With respect to notifications, 12 respondents indicate that they only notify those regulations that are not based on **international standards**, 29 indicate that they notify all new or changed regulations, whether or not they are based on an international standard and eight others indicate that they notify some regulations that are based on international standards, if they are of particular interest to trading partners. On the other hand, 44 respondents show a preference for the notification by other Members of all new or changed regulations, whether or not they are based on an international standard and two others prefer the notification of some regulations that are based on an international standard, if they are of particular interest to trading partners. Nine respondents have 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.

21. Under **Section 7 on Handling Requests for Full Texts** of proposed and adopted regulations, 21 respondents indicate that it is the EP, seven indicate that it is the NNA and 27 others indicate that it is both which have this responsibility. In terms of having a complete inventory of proposed and adopted sanitary and phytosanitary regulations, 20 indicate that their EP has an inventory, six indicate that their NNA has it and 13 indicate that both their EP and NNA have an inventory. Fifteen other respondents indicate that they do not keep an inventory. As for copies of full texts of proposed and adopted regulations, 20 indicate that their EP keeps them, five indicate that their NNA keeps them and 17 others indicate that both entities keep them. On the other hand, 13 respondents indicate that neither the EP nor the NNA keeps them.

22. 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, eight respondents indicate that they could not provide such summaries while six others could sometimes do it. 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.

23. Under **Section 8 on Handling other Requests for Information**, 33 respondents indicate 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.

24. Under **Section 9 on Interagency Communication and Coordination**, EPs of 51 respondents and NNAs of 46 respondents are described as having regular contact with officials in the relevant ministries.

25. Under **Section 10 on SPS Documents/Committee Meetings**, almost all respondents indicate that their EP receives other Members' SPS notifications. Forty-two indicate that their EP receives the monthly summary of notifications (which seems to be highly appreciated by Members) and 41 indicate that they receive copies of other SPS documents. Twenty-six EP representatives follow the work of the SPS Committee by attending the SPS Committee meetings while 20 others follow it through other means. Nine EPs seem not to be following the Committee at all. As for contacts with EP of other Members, 27 indicate that they have regular contact while 26 indicate that they do not. In ten cases, neither the EP nor the NNA has 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 or mentoring arrangements.

26. Under **Section 11 on Other Services**, 16 respondents indicate that their EP regularly provides information about other countries' import requirements to domestic producers/exporters while 25 others indicate that they do so when requested. For 16 others, this service does not seem to be provided. As for providing comments on other Members' SPS notifications, only 24 EPs seem to be involved in this exercise. With respect to the provision of information about national import requirements to national producers/importers/experts, 16 EPs are described as doing it regularly, 28 upon request and 11 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.

27. Under **Section 12 on Technical Assistance**, 18 respondents, including a number of developing countries, indicate that they provide technical assistance to EPs and/or NNAs. A total of 39 respondents, including developing countries and one LDC, indicate their willingness to provide technical assistance. With respect to identifying specific technical assistance needs, 30 respondents indicate that they have done so while almost an equal number have not. In terms of requesting technical assistance, 12 have requested and received technical assistance, five have requested but not received it, seven have received but not requested it and 32 (including 14 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.

28. Under **Section 13 on Special and Differential Treatment**, 50 respondents indicate 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 have been received under the new procedure, 30 respondents indicate that developing country Members are unable to screen incoming notifications quickly enough, while another 18 indicate that developing country Members are using other channels to request special and differential treatment. Four suggest that the procedure is being used but not being notified. Considering the past efforts of the SPS Committee in adopting the relevant decision and the significant number of respondents pointing to the

difficulties of developing country Members in screening notifications, the Committee may wish to discuss this matter further.

29. Under **Section 14 on Equivalence**, 49 respondents indicate 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. 13 respondents suggest that the Decision is being used but not being notified, 21 are of the view that Members are using mechanisms other than equivalence to obtain market access and 21 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	Grenada
25	Guatemala
26	Guyana
27	Honduras
28	Hong Kong, China
29	India
30	Italy
31	Jamaica
32	Japan
33	Kenya
34	Korea, Republic of
35	Macao, China
36	Mauritius
37	Mexico
38	Morocco
39	Nepal
40	Netherlands
41	New Zealand
42	Niger
43	Pakistan
44	Panama
45	Paraguay
46	Peru
47	Philippines
48	Saint Kitts and Nevis
49	Saint Lucia
50	Saint Vincent and the Grenadines
51	Slovak Republic

52	South Africa
53	Spain
54	Chinese Taipei
55	Trinidad and Tobago
56	United States
57	Uruguay
58	Unidentified Golf Cooperation Council Member
