

Committee on Sanitary and Phytosanitary Measures

**WORKSHOP ON TRANSPARENCY
HELD ON 18 AND 22 OCTOBER 2010**

Note by the Secretariat¹

A. SUMMARY

1. The Secretariat of the World Trade Organization organized a special workshop on the transparency provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) in Geneva, Switzerland. The workshop began on Monday, 18 October and continued on Friday, 22 October 2010. The programme for the workshop, contained in G/SPS/GEN/1021/Rev.1, was prepared taking into account the past two transparency workshops² held in 2003 and 2007, the Committee's discussions on this topic, as well as specific inputs from Members. The first day of the workshop (Monday, 18 October) provided for an overview of transparency issues and allowed for the exchange of national experiences in the plenary and during the break-out sessions. The second day of the workshop (Friday, 22 October) provided more hands-on training with practical exercises.

2. The presentations and documentation from this workshop are available from the "Members' transparency toolkit" section under the SPS Gateway (http://www.wto.org/english/tratop_e/sps_e/wkshop_oct10_e/wkshop_oct10_e.htm).

B. SESSION I: INTRODUCTION

3. The first session consisted of an overview by the Secretariat covering the transparency provisions of the SPS Agreement as well as tools to assist in their implementation. The Secretariat underlined that transparency not only brought clarity and predictability to the trading system, but that it also indicated a well-functioning national system that created trust in Members' policies and procedures. The main provisions on transparency are in Article 7 and Annex B of the SPS Agreement while the Committee's Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement are in document G/SPS/7/Rev.3.

4. As of October 2010, 138 out of 153 WTO Members had informed the Secretariat of their designated SPS National Notification Authority (NNA) and 146 Members of their SPS National Enquiry Point (NEP). For those Members which had more than one Enquiry Point, it was important to have well-functioning communication channels among these and also with the NNA. In practice, the NNA and the NEP were the same in most developed Members, which brought efficiency gains and facilitated coordination. These entities could also assist Members in benefiting from the multilateral transparency system by alerting stakeholders to changes in trading partners' regulations.

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 For the reports of these workshops, see G/SPS/R/32 and G/SPS/R/47, respectively.

5. Practical transparency tools available to Members included the SPS Information Management System (SPS IMS), the mentoring mechanism, the email distribution list for all SPS documents and notifications, and the Procedural Step-by-Step Manual for SPS National Notification Authorities and SPS National Enquiry Points ("http://www.wto.org/english/res_e/booksp_e/sps_procedure_manual_e.pdf").

6. The SPS IMS, which was publicly available in English, French and Spanish, facilitated searching and reporting on SPS notifications, other SPS documents, and specific trade concerns according to a wide range of criteria. It also included the most up-to-date information available to the Secretariat on Enquiry Points and Notification Authorities.

7. The mentoring mechanism was launched in 2008 (G/SPS/W/217) to assist developing country Members with the operation of their NEPs and NNAs. This voluntary procedure, which was originally proposed by New Zealand, brought together officials from different Members with similar responsibilities for information exchange and support. The Secretariat had so far matched 19 requesting Members with nine mentors.

8. The Secretariat had circulated a questionnaire to see how the mentoring mechanism had been working. The results had been mixed in that some pairs had been able to exchange information and meet each other while others had not had substantive exchanges. The difficulties encountered included technical problems, such as emails bouncing back, as well as internal procedural requirements and staff turnover. Lessons learned and recommendations included the need for setting concrete objectives and timetables and for Members receiving mentoring be more proactive in identifying needs. Some had suggested that the Secretariat take a more active role throughout the mentoring process. Another suggestion was for Members involved in mentoring to provide written accounts of their experiences to share with the Committee.

9. The Secretariat also referred to the online Notification Submission System (SPS NSS) due to be launched at the beginning of 2011 as the first WTO online facility for receiving notifications. The Secretariat was in the process of finalizing several issues related to internet security and in-house processes. With this new system, Members would receive guidance while filling out notifications on what format to use and on what type of information to fill out for each item of the format. The system would not only facilitate the Members' task in providing timely and accurate information but would also provide efficiency gains for the Secretariat.

10. In addition, the Secretariat presented the latest update of the Overview Regarding the Level of Implementation of the Transparency Provisions of the SPS Agreement (G/SPS/GEN/804.Rev.3). In particular, the Secretariat noted that two new Members had notified the WTO of the establishment of their NEP and NNA (the Democratic Republic of Congo and Sierra Leone) and one Member (Namibia) of their NNA. In addition, two Members, namely the Gambia and Saudi Arabia, had submitted their first SPS notifications in the previous year.

C. SESSION II: SHARING OF NATIONAL EXPERIENCES

11. The representative of Australia, Dr. Paul Vitlovich, spoke primarily about the importance of notifying. His main message was that the notification process was neither resource-intensive nor difficult to implement. It allowed compliance with transparency obligations, which in turn supported and enhanced international trade by providing greater certainty and increased confidence levels. He also emphasized that there were costs that accrued when notifications were not forthcoming. In responding to questions, he noted that Australia had one person who ran the SPS enquiry point, which was an economical model.

12. The representative of Canada, Ms Andrea Spencer, presented Canada's experience in facilitating and regularizing the preparation of notifications. She noted that the challenge for a number of Members was how to operationalize their obligations. Canada's Export Alert Notification Service enabled users to know about changing product requirements in global markets before they became law. Canada was willing to share this technology and set up new partnerships with other Members. She explained how draft regulatory proposals were published in the Canadian Gazette with a Regulatory Impact Analysis Statement (RIAS). Regulators were required to complete an RIAS, which provided a clear, non-technical synthesis of information that allowed the various stakeholders, including the Canadian enquiry point, to better understand the regulation. The RIAS enabled an assessment of questions such as the existence of international standards or differences of content from international standards, impact on trade, countries affected, etc.

13. Ms Spencer noted that Canada's SPS and TBT Enquiry Point/Notification Authority operated with four staff members and that having staff dedicated to these tasks was an important aspect for the proper functioning of this body. Other best practices were having systematic procedures to screen/assess regulatory measures as well as an established service standard in terms of the time taken to produce notifications. The service standard was two business days after receiving information on a draft measure in order to ensure sufficient time for comments from other Members. Since 2000, Canada was including the hyperlink for the full text of draft regulations within the notification format, reducing the number of requests for texts of measures and allowing staff to focus on other activities.

14. The representative of Argentina, Mr. Fabián Sáez, shared Argentina's experience regarding the management and administration of incoming notifications. In Argentina, the NNA drew up a weekly document which summarized all SPS notifications that were submitted the previous week. This information was then distributed internally among the different focal points of the National Agri-Food Health and Quality Service (SENASA): food safety, animal health, plant protection and veterinary products. One person within each of these directorates was responsible for further distributing the information and categorizing it by colour: green, yellow or red, depending on the level of impact to Argentina.

15. Mr. Sáez recommended to involve the private sector as much as possible. He observed that it was common in many countries to expect the government to follow these measures and react appropriately. Although the government had an important role to play, it needed to be backed up by the private sector, which actually carried out trade transactions. Another recommendation was to set up mechanisms to filter notifications of interest. In addition, he noted that providing follow-up to comments made by domestic technical experts was a good practice in order to acknowledge the work carried out by them.

16. The representative of El Salvador, Ms Verónica Bustamante, presented a project that the Directorate of Trade Treaty Administration in El Salvador (DATCO) was working on to establish a notification and export alert system. This system intended to strengthen the work of the contact point and improve internal coordination among those that developed, adopted, and/or monitored technical regulations. She noted that the new system would distribute notifications from both El Salvador and other Members to interested parties. It would contain all current technical regulations of El Salvador for the production, importation, commercialization and distribution of specific products. The new system would also contain an export alert system where interested parties could sign up to receive email alerts regarding a notification from a market and product of interest. She noted that the export alert was based on other successful systems such as those from Colombia, Argentina and Mexico. She highlighted that this system would not substitute the procedures that were already in place but rather would be a simple, user-friendly tool that would automate several of the services for the SPS/TBT contact point.

17. In responding to questions from other participants, the Secretariat clarified that there was no obligation in the SPS Agreement to create a SPS National Committee; however, Members' experience indicated that those which had a formal or informal national SPS Committee were able to manage SPS issues more effectively. The representative of IICA noted that those countries that had initiated such institutional processes were able to have sustainability in the area of transparency. Several Members also noted the benefits of having a national forum to discuss and coordinate positions among national stakeholders.

18. The representative of Chile noted that creating a whole new unit within one of the Ministries in order to take up the tasks of the NNA could be complicated and burdensome for some Members given that it would require additional resources. She added that an NNA for less developed countries should only require one to two staff Members, who would also be working on other tasks and not solely on the functions of the NNA.

19. The representative of Senegal, Mr. Alhousseynou Moctar Hanne, stated that his country had been able to organize a national plan of action regarding the implementation of the SPS Agreement thanks to several technical assistance activities, in particular with the European Union. Certain problems relating to the export of fruit and vegetable products to Europe had encouraged Senegal to come up with the action plan. The plan enabled Senegal to define priorities and in particular to implement transparency-related procedures. It took into account the strengths, weaknesses, the expected outcomes, the strategies to undertake, the implementation periods, success indicators, corrective actions, and the costs.

20. Coordination among various Ministries and deciding which Ministry should be designated as the Enquiry Point were among the challenges in implementing the plan. In terms of the positive outcomes, Senegal had begun notifying a number of measures to the SPS Committee and enjoyed a functional relationship between the Enquiry Point and various Ministries. In terms of success indicators, Senegal noted an increase in exports of fruit and vegetables in 2008, enabling his country to move forward with the plan. Burkina Faso, Mali, Mauritania, Niger and Senegal were trying to synergize their actions to train personnel.

21. The SPS contact point (NNA and NEP) from New Zealand, Ms Sally Jennings, and the representative from Saudi Arabia, Mr. Majid Alkhalaf (in replacement of Dr. Al Sheddy), made a joint presentation on how to maximize benefits from a bilateral technical assistance project. Ms Jennings stated she had been designated as a mentor to five Members but that it had been difficult to establish a relationship with any of them. Although many Members were eager to sign up to the mentoring mechanism, few were actually in a position to benefit from it as they neither had the basic mechanisms in place nor had they identified their needs. Saudi Arabia was not a New Zealand mentoree, but they had independently sought out assistance, notably after having put together their plan for developing an SPS contact point.

22. Mr. Alkhalaf gave a brief presentation on the history of the Saudi Food & Drug Authority (SFDA), which is in charge of the SPS contact point. He noted that in February 2010, an SPS Facilitation Programme had been completed by Ms Sally Jennings which included, *inter alia*, a general WTO/SPS overview workshop as well as a SPS notification writing workshop. Following these workshops, Saudi Arabia had issued a Draft Procedural Manual for the SPS National Notification Authority and SPS National Enquiry Point in both Arabic and English. Saudi Arabia had also issued a Draft Handbook for Completing National SPS Notifications in Arabic. As a result of these activities, in March 2010, Saudi Arabia had submitted its first SPS notification.

23. Mr. Melvin Spreij, the Secretary to the STDF, gave an update on STDF's transparency-related activities. He noted that although most Members had designated an NEP and an NNA, these were not always very effective. Some of the contributing factors were inadequate human and/or financial

resources, ongoing difficulties to access Internet, low government salaries, and staff motivation. The STDF had been funding various projects that aimed to increase transparency through SPS coordination at a national and regional level, as well as enhanced linkages between government agencies and the private sector.

24. The STDF had recently published a scoping study on regional SPS frameworks and policies in Africa developed and adopted by Regional Economic Communities (RECs). This study, which had been requested by the African Union Commission (AUC), was a first step in analyzing the various existing and planned regional SPS frameworks in Africa and in guiding future work in this area. Several regional SPS frameworks required notifications to regional SPS bodies. Such multiple notification requirements could create an unnecessary burden on many African countries which had limited resources and which were members of more than one REC. It was rather recommended that these RECs make use of the existing transparency procedures developed by the SPS Committee. Another recommendation was for SPS web pages to be better organized and kept up-to-date, both at the national and regional level.

25. The STDF was currently funding the preparation of a parallel scoping study to identify the factors that contribute to successful SPS coordination mechanisms at the national level and a first draft would be available by the beginning of 2011. Increasing political awareness about the importance of SPS measures for trade, where possible illustrated by cost-benefit analysis examples, was essential to providing an operational and effective framework for managing and coordinating work on SPS measures at the national level. Without this high-level commitment and support, institutional rivalries and limited incentives for inter-agency collaboration often obstructed efforts to promote improved coordination and transparency.

26. The representative of the European Union drew attention to its analysis of the use of the transparency guidelines and formats adopted in 2008 by the SPS Committee (G/SPS/GEN/1044). The European Union urged Members to identify the appropriate international standard relevant to the measure being notified under Item 8 of the notification format and to give a clear explanation of any deviation from that international standard. He also pointed to the lack of transparency in plant health import requirements and encouraged Members to work further in this field.

27. The representative of Chile noted that they had undertaken major efforts to notify all quarantine and regulated pests but that they had not received any comments from other Members. It was not only important for importing Members to properly fill out Item 8, but also for exporting Members to perform the subsequent analysis on incoming notifications.

28. The representative of Morocco described several of the recent measures Morocco had taken to implement SPS transparency obligations (G/SPS/GEN/1047). Prior to January 2010, Morocco had designated two Enquiry Points to respond to all reasonable questions and provide relevant documents on SPS matters. However, following the creation of the National Office for Food Safety, a single Enquiry Point was designated as responsible for all SPS questions, leading to efficiency gains.

D. SESSION III: WHAT ACTIONS COULD IMPROVE THE IMPLEMENTATION AND BENEFITS OF SPS TRANSPARENCY PROVISIONS?

29. The WTO Secretariat facilitated four concurrent breakout sessions, two in English, one in French, and one in Spanish. During these sessions, Members identified possible solutions to common concerns regarding the implementation of the transparency provisions.

30. The recommendations arising from the breakout sessions included:

- (i) The development of a best practices guide on the implementation of the transparency provisions, such as national coordination mechanisms and the operation of NEPs and NNAs. Some suggested that this could be preceded by a questionnaire and/or a meeting on the margins of the SPS Committee to identify themes to include in the guide;
- (ii) Further training on the SPS Information Management System;
- (iii) Encourage Members to provide the text of regulations through the Secretariat's facility for uploading PDF files;
- (iv) Encourage Members to circulate translations of regulations;
- (v) Members could make better use of the mentoring mechanism by using the SPS Committee meetings to have face-to-face meetings with their partners to discuss concrete timelines and project proposals;
- (vi) Members should not be overambitious, but would benefit from taking small simple steps when creating a well-functioning national transparency mechanism;
- (vii) SPS contact points could better filter incoming notifications, for example on the basis of product lists, in order to have a more targeted distribution to relevant stakeholders; and;
- (viii) The Procedural Step-by-Step Manual for SPS National Notification Authorities and SPS National Enquiry Points should be updated as necessary and more widely disseminated, perhaps by e-mailing an electronic version to all NEPs and NNAs.

E. SESSION IV: PRACTICAL SESSION ON HOW TO PREPARE NOTIFICATIONS

31. The WTO Secretariat gave a brief overview on how to prepare notifications and drew the participants' attention to where they could find information on the various notification formats. These included the Recommended Procedures document (G/SPS/7/Rev.3) as well as the "Member's Transparency Toolkit" section on the SPS Gateway (http://www.wto.org/english/tratop_e/sps_e/transparency_toolkit_e.htm).

32. The Secretariat also presented the new online notification submission system (SPS NSS), which would allow Members to enter notifications directly through an online interface as an alternative to filling out a format in MS Word and sending it via mail, fax or email to the WTO Central Registry of Notifications (CRN). The SPS NSS would provide guidance to users as they went through the various steps of filling out a notification, which in turn would reduce errors while also decreasing the processing time for the Secretariat to distribute notifications to Members.

33. During the hands-on session, participants were asked to fill out a sample notification through the SPS NSS, which was based on a fictional situation prepared by the Secretariat. For this purpose, they either used their own laptops or one of the 40 computers provided by the WTO. Participants were very enthusiastic about the system and provided useful feedback in preparation for its launch scheduled for early 2011. The Secretariat noted that the SPS facility would pave the way for the development of similar systems for notifications in other WTO areas.

F. SESSION V: PRACTICAL SESSION ON HOW TO TRACK INCOMING NOTIFICATIONS

34. The Secretariat presented the SPS Information Management System (<http://spsims.wto.org/>) and described the benefits of using the system. Its Help File, which was available by clicking on the "Help" link on the top of the homepage, had recently been updated. This resource offered detailed descriptions and helpful tips on how to use the different features of the system.

35. The representative of New Zealand, Ms Sally Jennings, presented useful tips for preparing alerts using the SPS IMS, identifying and maintaining stakeholder lists, and filing and maintaining records of SPS-related information. In New Zealand's experience, having the NEP and the NNA in one entity had been very beneficial. If a Member was in the process of setting up an NEP and NNA, it would be beneficial to house them in one entity.

36. She underlined that a best practice for SPS contact points was to use the SPS IMS and noted that its use had significantly added efficiency gains in terms of her day-to-day work. She showed participants how to prepare a user-friendly summary sheet of notifications by using the custom reporting feature from the SPS IMS and noted that she produced and sent these tables to stakeholders on a weekly basis. Regarding the development of distribution lists, she recommended consideration of the types of stakeholders who needed to follow SPS notifications and most importantly to maintain good working relations with them. Networking and communication skills were key in this area. Stakeholders could include business groups, other governmental departments, research/educational organizations, industry groups, etc. Record-keeping of both follow up actions on notifications made by other Members as well as handling comments or document requests from other Members was a necessary step in maintaining an efficient SPS contact point. Best practice was to use email for both communicating with as well as sending documentation to interested parties.

37. Several participants had identified difficulties in obtaining translations during the workshop, and Ms Jennings recommended using online facilities such as "Google Translate" in order to get an idea of what the regulation was about. She noted that her office used these types of facilities on a regular basis and explained that although not fully accurate, it did allow users to get a general idea of whether the document was of relevance to stakeholders.

38. In response to a question, Ms Jennings suggested that if a Member had not received a response or an acknowledgment following a request for information from the SPS contact point of another Member within the normal five business day period (G/SPS/7/Rev.3, para. 19), they should request the mission or embassy of the relevant Member to facilitate access to the information. If a Member was preparing a regulation that would affect a specific trading partner, a notification should probably not be the only method of conveying that information to the affected Member. Rather, as a best practice, there needed to be dialogue between the technical experts even before the notification was issued.

39. Referring to the WTO's email distribution list for unrestricted SPS documents, Ms Jennings noted that staff working directly as the SPS NEP or NNA needed to be included in this list rather than just supervisors or other representatives to facilitate ownership and speed of reaction time. Interested officials could go to the WTO's SPS Gateway to find out more about joining this mailing list.

40. Following the presentations, the participants engaged in a hands-on exercise on how to use the SPS IMS. Participants were asked to search for and prepare reports on notifications, specific trade concerns, other SPS documents, and SPS Enquiry Point contact information. Although several participants had heard of the SPS IMS, the hands-on training allowed them to delve into the system and realize its usefulness as a transparency tool. Many participants indicated their intention to use it regularly upon return to capital.
