

**COMMENTS ON TRANSPARENCY
AND IN PARTICULAR ON G/SPS/W/112 NEW ZEALAND PROPOSAL
FOR REVIEW OF THE NOTIFICATION PROCEDURE**

Submission by the European Communities

1. The European Communities submits hereby some comments and suggestions with regard to the notification procedure as foreseen in Article 7 and Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures. The purpose of this document is twofold. This document includes both some general comments on the notification procedure as it stands as well as some comments on G/SPS/W/112 submitted by New Zealand.

2. First of all, in line with the request from the SPS Secretariat in November 2001 last, the European Communities hereby reconfirms the co-ordinates of the EC enquiry point and Notification Authority.

European Communities:

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A. GENERAL COMMENTS ON THE CURRENT NOTIFICATION PROCEDURE

3. Some countries, although they are not developing countries, send notifications in their own language which is different from the three official WTO languages. It is often difficult and requires additional efforts to obtain a version in one of the three official WTO languages and therefore transparency of the notification process is hampered.

4. The European Communities always sends replies to comments from any other WTO Member but does not always receive replies to its own comments. The European Communities feels that some defined rules should be established for this, or that at least the current rules be systematically applied. It is suggested that if no formal obligation to reply to comments is envisaged then at least the intention thereof is reflected or a receipt acknowledgement is sent.

5. The European Communities suggests standardizing the format of comments for ease of reference.

6. The European Communities suggests further clarification on the reasons for an emergency notification especially as regards the explanation on the rationale behind it. A concise justification should be provided which clearly points to the nature of the urgent problem.

7. Furthermore, the European Communities would like to emphasize that before modifying or extending the notification procedure substantially, the current procedures should be fully applied. It is recognized that in view of the increasing amount of notifications during the last year, the full implementation of all notification requirements is highly demanding and requires the necessary human resources. In increasing the requirements even further, this might lead to total obscurity instead of clarification.

B. COMMENTS ON DOCUMENT G/SPS/W/112 SUBMITTED BY NEW ZEALAND (NZ)

8. The NZ proposals are very much welcomed by the European Communities, although it should be emphasized that the existing rules should first be fully applied before any modifications are made (see paragraph 7 above). The above-mentioned rules of good practice are therefore considered priorities.

9. The NZ proposal on clarification of addenda, corrigenda and revisions is very much welcomed by the European Communities. Especially the distinction between addenda and revisions should be clarified, and the period for comments clearly defined in order to avoid never-ending extension periods. In this respect, a new comment period should be granted for revisions (not necessarily 30 days), however without any extensions. No comment period should be granted when the revision takes into account the previous comments.

10. The inclusion of "risk analysis" on page 9, point 8.C in the NZ proposal is very much welcomed, although it is felt that this terminology should be replaced by "risk assessment".

11. On point 41 under G "Regulations that contain both SPS or TBT measures", the European Communities suggests to have less imperative wording. The idea is of course sustained, but *de facto* it does not make any difference legally whether it is notified under both agreements or not, because it is left to the WTO Dispute Settlement Understanding to decide under which agreement the issue will be pursued.
