

SPS AND DEVELOPING COUNTRIES

TRANSPARENCY: (ARTICLE 10.1) "PRE-NOTIFICATION"

Submission by Egypt

1. The obligation under subparagraph 5(a) of Annex B of the SPS Agreement, provides that members shall "publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation". Reading this provision, we have the impression and understanding that Members are obliged to publish a notice that there is a proposal to introduce a particular regulation regarding a particular product. This publication exercise is normally before the submission of the relevant notification to the SPS Committee.

2. Following this logic, one can presuppose that a measure could be notified either at the same time as the notice was published or within a period of time thereafter. Most probably Members would choose the second option, i.e. to notify the measure after completing a draft text. The notification may or may not allow a 60-days comment period and may not address the other problems hindering effective implementation of the transparency obligations so eloquently discussed in the submissions from China and Mexico.

3. Egypt agrees with the views that transparency is a provision that sustains the multilateral trading system. That is why it supports all contributions aiming at enhancing the implementation of such an horizontal provision (as it applies to each and every commitment including with respect to the implementation of the Special and Differential Treatment and Technical Assistance related provisions).

4. Egypt has proposed a set of ideas to further enhance the transparency of Article 10.1 of the SPS Agreement. Canada, followed by the Secretariat, have done an excellent job in this regard, and the United States has latterly followed with another note-worthy proposal. Moreover, Mexico's proposal (G/SPS/W/136) could add more value and flesh to what Egypt have been doing throughout the last year, as it complements Egypt's earlier suggestion that Members submit "pre-notifications" regarding their intention to elaborate "sanitary and/or phytosanitary measures for a specific sector or product". The pre-notification shall be submitted at the date the notice was published following paragraph 5(a) Annex (B). Doing so would lead to:

- (i) Members becoming more acquainted with the regulatory environment in the other Member countries;
- (ii) Members becoming aware that sanitary and/or phytosanitary measures for a specific sector or product are being drafted in one of their export markets. This could raise the degree of certainty in the export market and so secure current market access opportunities;

- (iii) Members having more time to draw the attention of their exporters to the changing regulatory environment in their export markets, thus allowing them better opportunity to comply with such a new environment without or with minimal trade losses;
 - (iv) Members having a better chance to communicate with their trade partners in a manner that would maintain their mutual interests;
 - (v) Exporting Members having a better chance to contribute, to the extent allowable, in the various stages of the development of a measure and thus increasing the tendency towards harmonization;
 - (vi) Ensuring better implementation of the provision of Annex B, paragraph 5(a);
 - (vii) Developing countries being able to identify, in collaboration with the notifying Member, the kinds of special and differential treatment which are technically feasible, as well as the types of technical assistance which could be requested;
 - (viii) Developing countries lacking skills could benefit from the technical and legal expertise of the Member adopting the measure as well as from comments submitted by other Members throughout the various levels of its development; and
 - (ix) Members making full use of the 60 days comment period, since they are provisionally acquainted with the proposed measure.
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