



TRANSPARENCY UNDER THE SPS AGREEMENT (ARTICLE 7 AND ANNEX B)

FOLLOW-UP PROPOSALS FOR ACTION

Joint Submission by the European Union and Chile

The following communication, received on 4 October 2016, is being circulated at the request of the Delegations of the European Union and Chile.

1 INTRODUCTION

1.1. During 2013 and 2014, as part of the Fourth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), the European Union, Chile, Morocco and Norway, made several proposals¹ for action to facilitate the fulfilment of the transparency obligations under Article 7 and Annex B of the SPS Agreement.

1.2. This communication pursues some of the above proposals in areas identified by several Members in the transparency questionnaire² and at the workshop of October 2015³ as requiring further improvement. The European Union and Chile consider that significant progress could easily be achieved in those areas.

1.3. During the SPS Committee meeting in March 2016 the European Union suggested concrete actions in relation to the availability of translations of notified documents, the identification of trade facilitating measures and access to information about SPS import requirements. The SPS Secretariat explored possible options on how to address these proposals and requested feedback also from other Members.

1.4. At the SPS Committee meeting of July 2016 the European Union was invited to submit in writing its suggestions on transparency. This joint communication from the European Union and Chile is the response to that invitation.

2 TRANSLATIONS OF NOTIFIED DOCUMENTS

2.1. The number of notifications has significantly increased during the last years, which constitutes a real challenge for all Members, particularly developing and least developed countries. Providing translations in all WTO official languages requires significant resources which are not available to most notifying countries. This, in turn, makes it difficult to for Members to send comments within the established deadlines.

2.2. As this is a matter of concern to several Members, the European Union had suggested sharing unofficial translations through an informal online platform. This suggestion was supported by Chile. The Secretariat explored technical options to address this request and proposed to post unofficial translations on the WTO SPS website.

¹ G/SPS/GEN/1293, G/SPS/W/277 and G/SPS/W/278.

² G/SPS/GEN/1402.

³ G/SPS/R/80.

2.3. The European Union and Chile welcome this proposal as a workable and easy solution that would have a significant impact for the correct implementation of the SPS Agreement. We suggest that translations should be considered unofficial – unless provided and agreed by the notifying Member itself – and that this should be clearly stated in a disclaimer. Because of their unofficial status, in our view, access to these documents should be restricted to Members only. For the same reason, the country providing the translation should remain anonymous.

2.4. WTO Members also have the possibility to share translations of their notified documents via supplementary notifications. Since 2004, the date of its creation, until July 2016, only 19 supplementary SPS notifications were circulated. Despite its limited use, we believe that the publication of supplementary notifications provides a valuable opportunity for Members to make official translations of their notified documents publically available on the general WTO website. Therefore, the European Union and Chile would suggest that the two systems should work in parallel to ensure that all translations, including the ones submitted in a supplementary notification, are available on the SPS website. Supplementary notifications could be made available through a specific link.

3 TRADE FACILITATING MEASURES

3.1. Members' answers to the transparency questionnaire clearly show that more guidance on the term "trade facilitating measure" and a common understanding to ensure uniformity of its use are needed.

3.2. Due to differing interpretations, practices with respect to classifying a measure as trade facilitating vary substantially among Members.

3.3. During the July 2016 SPS Committee meeting the European Union, supported by Chile and other Members, proposed a discussion of this concept in the framework of an informal meeting to provide an opportunity for Members to exchange information about their current practices. If appropriate, this could lead to the Committee developing some guidance. The European Union and Chile would like to suggest that this meeting, in whatever format, should take place in 2017.

4 ACCESS TO INFORMATION ABOUT SPS MEASURES IN FORCE

4.1. Availability at any given time of all SPS measures adopted by any Member is an area of high concern for the European Union and Chile. The difficulties created by insufficient access to such information pose a major obstacle to international trade.

4.2. The European Union had suggested that Members should make such requirements available via dedicated websites. Internet links to these websites could be shared through an informal platform, which would be maintained by the WTO SPS Secretariat.

4.3. Members' replies to the transparency questionnaire revealed that the majority of countries did not have such a dedicated website. Some Members noted that their import requirements could be found on several websites because different ministries, institutions and stakeholders were involved. Other Members indicated that they were in the process of creating an integrated dedicated website for such a purpose.

4.4. The Secretariat, based on feedback from Members, noted that the creation and constant updating of such website could be very difficult for some Members, particularly developing countries.

4.5. In the light of the above, the European Union and Chile would suggest creating an informal on-line platform to be used by Members on a voluntary basis. Members which already have a dedicated website(s) on their import requirements could share their web links. Others could join at a later stage, depending on their readiness. The precise location of this online platform would be discussed with the Secretariat.

5 CONCLUSION

5.1. Transparency is not only a major obligation of the SPS Agreement but also a fundamental tool for the effective functioning of the Agreement. The European Union and Chile firmly believe that continuous efforts should be made to facilitate Members' implementation of the transparency obligations and this is the objective of this communication.

5.2. The European Union and Chile suggest that at the SPS Committee meeting of October 2016 Members should discuss, with a view to agreeing on next steps, the proposals contained in this communication, namely:

- the posting of unofficial translations of notifications in the WTO website;
 - the holding of an informal discussion on Trade Facilitating Measures in 2017; and
 - the setting of a platform to share, on a voluntary basis, access to Members' SPS regulatory measures.
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