

WORLD TRADE ORGANIZATION

RESTRICTED

G/SPS/W/33

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(95-3510)

Committee on Sanitary and Phytosanitary Measures

Special Joint SPS/TBT Meeting on Transparency Procedures

Report by the Chairman

1. On 6-7 November 1995, a special joint meeting of the SPS Committee and the TBT Committee on the subject of information procedures (notification and enquiry points) was held as had been agreed (G/SPS/R/1 paragraph 13 and G/TBT/M/2, paragraph 58). The purpose of the meeting was to stimulate a discussion on the procedural aspects of information exchange required by the SPS and TBT Agreements. The meeting provided an opportunity to raise questions and discuss the practical problems and difficulties Members may have encountered in implementing the transparency provisions of the Agreements. It was agreed that no formal decisions would be taken at this meeting, but that any proposals emanating from the discussions would be brought to the attention of the two Committees, respectively, at their regular meetings. That is the purpose of this report, which I submit on my own responsibility.

2. The special meeting addressed separately the requirements on governments to provide notifications of proposed regulations and the requirement to establish an Enquiry Point to respond to requests for information. It was noted that the notification obligations were an inter-governmental procedure, whereas Enquiry Points were open to all interested parties. The Secretariat presented, with respect to each agenda item, the provisions of the two agreements and any relevant recommendations which have been agreed by the respective Committees. To address the difference in coverage of the TBT and SPS Agreements, the Secretariat made a presentation, the graphs of which are available in document G/SPS/W/32.

3. With respect to the notification formats, the following suggestions were made at the special meeting:

- a. that the notification format seek separately information regarding the date of adoption and the date of entry into force of a proposed regulation;
- b. that the language(s) in which notified documents are available be indicated on the format;
- c. that the authority or agency designated to handle comments about the notification be identified on the format; and
- d. that the Committee(s) consider the possibility of developing a single format for both SPS and TBT notifications.

4. The SPS Committee may also wish to consider developing guidelines regarding at which stage of development a proposed regulation should be notified, in parallel with the recommendations of the TBT Committee (G/TBT/1/Rev.1, page 14, paragraph 2).

5. It was recognized that some regulations might contain elements relevant to both the TBT and SPS Agreements. If this were the case, it was suggested that there were two approaches which Members could follow in notifying the proposed regulation. Members could submit a single notification to the Secretariat (either for SPS or TBT), to be distributed as both an SPS and TBT notification, which clearly indicated which elements of the proposed regulation were sanitary or phytosanitary measures, and which elements were subject to the TBT Agreement. Alternatively, Members could submit two separate notifications, one under the SPS Agreement and another under the TBT Agreement, each of which would contain only those elements of the proposed regulation covered by the respective Agreement.

6. The Secretariat indicated that delays in its processing of notifications could be avoided if Members ensured that the notification formats were filled out completely and correctly. If Members could provide their notifications in more than one of the WTO working languages, they were encouraged to submit these also to the Secretariat.

7. With respect to the distribution of notifications by the Secretariat, it was suggested that Members be able to designate a single address, whether in Geneva or capitals, to which SPS notifications would be directly mailed -- as is done with TBT notifications.

8. The possibility of making notifications accessible through Internet, in order to make them more rapidly available, was also discussed. This might, however, require that the notifications be derestricted. Most participants supported the idea of de-restricting notifications, particularly if this would permit their electronic distribution via Internet, but some Members suggested that the Committee should await adoption of general WTO guidelines regarding the classification of documents, currently being considered by the General Council, and one Member expressed substantive concern about making notifications unrestricted and available to the public. It was recalled that both Agreements require governments to publish notice in a national publication of a proposed regulation.

9. In processing requests for basic documents mentioned in notifications, it was suggested that Members use FAX facilities to the extent possible, and that they acknowledge receipt of requested documents. Members were also encouraged to give favourable consideration to requests for extension of comment periods, in view of delays often experienced in receiving and translating the relevant documents.

10. With regard to the operation of Enquiry Points, the following suggestions were made:

- a. that the E-mail addresses, where available, be included on any revised list of Enquiry Points;
- b. that the list of Enquiry Points (G/SPS/ENQ/3) be made available as an unrestricted document;
- c. that Members use FAX facilities to respond to requests for documents to the extent possible;
- d. that Members acknowledge receipt of documents they have requested from Enquiry Points; and

- e. that the Secretariat prepare a brochure which would provide a practical description of the functions of Enquiry Points and highlight the basic requirements and recommendations in this regard.

11. The need for technical assistance to enable developing countries to establish and ensure the effective operation of an Enquiry Point was raised, and developing country Members were encouraged to make known their needs in this regard.

12. The Secretariat provided information regarding the operation of the Central Registry of Notifications, and on the Working Group on Notification Obligations and Procedures.

13. It was apparent from the discussions that such special meetings, whether of one committee alone or jointly, provide a valuable opportunity to advance the implementation of the transparency provisions, and hence the functioning of both Agreements. In this regard, a suggestion was made that any such special meetings should be scheduled to coincide more closely with a regular meeting of the Committee(s).