

# WORLD TRADE ORGANIZATION

RESTRICTED

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**Working Party on the Accession of  
the Islamic Republic of Afghanistan**

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## **ACCESSION OF AFGHANISTAN**

### Checklist of Illustrative Sanitary and Phytosanitary (SPS) Issues for Consideration in Accessions

The following submission, dated 23 January 2012, is being circulated at the request of the Delegation of the Islamic Republic of Afghanistan.

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Commitments	WTO Reference	Draft Law on Food	Draft Plant Protection and Quarantine Law
<p>1. Standstill: the introduction of new standards, animal health regulations and food safety regulations shall conform to SPS Agreement principles.</p>	<p>1. Generally agreed principle in WTO accession negotiations.</p>		
<p>2. Establishment and operation of a single Contact Point for Information ("enquiry point").</p>	<p>2. Article 7 and Annex B.3</p>	<p>Please note that provision for the establishment of a national enquiry and notification center is in Article 38.1 of the Law on Plant Protection and Quarantine.</p>	<p>Article 38:</p> <p>(1) A National Sanitary and Phytosanitary Enquiry and Notification Point (hereinafter SPS ENP), shall be established at the Ministry of Agriculture Irrigation, and Livestock to process enquiry regarding all sanitary and phytosanitary measures of Afghanistan and provide notification regarding all relevant draft and adopted sanitary and phytosanitary measures.</p> <p>Article 40:</p> <p>Upon the request of any person in accordance with obligations of international agreements, the SPS ENP shall provide the latter with any information concerning phytosanitary measures for objects subject to phytosanitary measures. Such information shall include the following:</p> <p>(1) Scientific justification for phytosanitary measures that are applied on both imported and domestic food products;</p> <p>(2) Procedures and means of risk assessment of food-borne hazards for human health, as well as the data of the reports related to such risk assessment;</p> <p>(3) Procedures and means of controlling food products in Afghanistan;</p> <p>(4) Current instructions, requirements, and procedures of food product inspection and control;</p> <p>(5) Information about membership and participation of Afghanistan in the relevant international organizations or international agreements regarding phytosanitary measures and the texts of such agreements; and</p> <p>(6) Any other relevant information.</p>

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3. Transparency: notification and access to documentation:	3. Articles 7 and Annex B, Also G/SPS/7		
(a) identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis;	(a) Annex B.5(b) and Annex B.10	<p>Article 21: Notification and Publication of National Food Safety Measures</p> <p>(1) All proposed food safety measures, that do not conform to international standards or for which no international standards exist, and it is expected that they may have a significant effect on export opportunities of interested trading partners, shall be notified through the National Sanitary and Phytosanitary Enquiry and Notification Point – SPS ENP (established under other legislation of Afghanistan) no less than 60 days before preparing a final draft food safety measure in accordance with the provisions of relevant international agreements. In addition, an announcement of the availability of proposed food safety measures and means of obtaining the proposed food safety measures shall be published.</p>	<p>Article 38.1:</p> <p>(1) A National Sanitary and Phytosanitary Enquiry and Notification Point (hereinafter SPS ENP), shall be established at the Ministry of Agriculture Irrigation, and Livestock to process enquiry regarding all sanitary and phytosanitary measures of Afghanistan and provide notification regarding all relevant draft and adopted sanitary and phytosanitary measures.</p> <p>(1) All proposed phytosanitary measures, that do not conform to international standards or for which no international standards exist, and it is expected that they may have a significant effect on export opportunities of interested trading partners, a notice of the availability of the proposed phytosanitary measure shall be published and such measure shall be notified through the SPS ENP no less than 60 days before preparing a final draft phytosanitary measure in accordance with the provisions of relevant international agreements.</p>
(b) establish guidance or law requiring publication of proposed measures at an early stage for comment;	(b) Annex B.5(a)		
(c) provision in law or administrative procedure to provide copies of proposed measures to WTO Members; and	(c) Annex B.5(c)	<p>Article 22: Provision of Information on Relevant Food Safety Measures</p> <p>Upon the request of any person in accordance with obligation of the international agreements, the SPS ENP shall provide the latter with any information concerning food safety measures for objects subject to food safety measures.</p> <p>2. Such information shall include the following:</p> <p>(a) Scientific justification for food safety measures that are applied on both imported and domestic food products;</p> <p>(b) Procedures and means of risk assessment of food-borne hazards for human health, as well as the data of the reports related to such risk assessment;</p>	<p>Article 39.2:</p> <p>(2) Comments received as a result of the notification and publication of proposed new or changed phytosanitary measures shall be taken into consideration in a non-discriminatory manner before such measures are adopted. When requested in writing by a person or interested trading partner, the SPS ENP shall provide the text of the proposed phytosanitary measure, and, whenever possible, identify the provisions, which in substance deviate from international standards, guidelines and recommendations.</p>

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		<ul style="list-style-type: none"> <li>(c) Procedures and means of controlling food products in Afghanistan;</li> <li>(d) Current instructions, requirements, and procedures of food product inspection and control;</li> <li>(e) Information about membership and participation of Afghanistan in the relevant international organizations or international agreements regarding food safety measures and the texts of such agreements; and</li> <li>(f) Any other relevant information.</li> </ul>	
<p>(d) require in law or administrative procedure, a reasonable period of time for comment from Members and the public, and establishment of a process to take comments into account without discrimination.</p>	<p>(d) Annex B.5(d)</p>	<p>Article 21: Notification and Publication of National Food Safety Measures</p> <ul style="list-style-type: none"> <li>(1) All proposed food safety measures, that do not conform to international standards or for which no international standards exist, and it is expected that they may have a significant effect on export opportunities of interested trading partners, shall be notified through the National Sanitary and Phytosanitary Enquiry and Notification Point – SPS ENP (established under other legislation of Afghanistan) no less than 60 days before preparing a final draft food safety measure in accordance with the provisions of relevant international agreements. An announcement of the availability of proposed food safety measures and means of obtaining the proposed food safety measures shall be published.</li> <li>(2) Comments received as a result of the notification and publication of proposed new or changed food safety measures shall be taken into consideration in a non-discriminatory manner before such measures are adopted. When requested in writing by a person or interested trading partner, SPS ENP shall provide the text of the proposed food safety measure, and, whenever possible, identify the provisions, which in substance deviate from international standards, guidelines and recommendations.</li> </ul>	<p>Article 38.1 (see above) and Article 38.2:</p> <ul style="list-style-type: none"> <li>(2) Comments received as a result of the notification and publication of proposed new or changed phytosanitary measures shall be taken into consideration in a non-discriminatory manner before such measures are adopted. When requested in writing by a person or interested trading partner, the SPS ENP shall provide the text of the proposed phytosanitary measure, and, whenever possible, identify the provisions, which in substance deviate from international standards, guidelines and recommendations.</li> </ul>

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4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health.	4. Article 2.2	Article 19: Scientific basis and risk assessment  (1) Food safety measures shall only be applied to the extent necessary to achieve protect human health or life, and without unjustified discrimination between food products produced domestically and imported food products, or between different suppliers of imported food products.	Article 16.2:  (2) Phytosanitary measures shall be applied only to the extent necessary to protect animal, plant or human life or health As conditions change or new facts become available, the NPPO shall modify or revoke phytosanitary requirements and phytosanitary measures as well as prohibitions without delay.
5. Regulations Based on Science: regulations governing animal and plant health and food safety shall be based on scientific evidence.	5. Articles 2.2, 3.3 and 5.2	Article 19: Scientific basis and risk assessment  (3) Food safety measures shall be based on an assessment, appropriate to the circumstances, of the risks to human health, taking into account risk assessment techniques developed by international organizations.	Article 16.1:  (1) In order to prevent the introduction and spread of regulated pests, the Minister shall establish phytosanitary requirements, phytosanitary measures and prohibitions on the import of plants, plant products and other regulated articles based on existing international standards, or when such international standards are not available or applicable, the measure shall be based on scientific principles and available scientific evidence.
6. Harmonization: to the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures.	6. Articles 3.1, 3.3 and 3.4	Article 18: International Standards  (1) International standards for food safety, where they exist, shall be used as the basis for establishing national standards for food safety and developing national food safety measures; and  (2) Where international standards do not exist, or where a national standard for food safety/national food safety measure deviates from international standards, the national standard for food safety/national food safety measure shall be based on scientific principles and available scientific evidence.	
7. Equivalence: members shall recognize different measures that achieve the same level of protection.	7. Article 4	Article 20: Equivalence  Food safety measures of other countries shall be accepted as equivalent, even if these measures differ from Afghanistan's measures or those of other countries, if an exporting country objectively demonstrates that its measures achieve Afghanistan's level of protection.	Article 16.3:  (3) The NPPO shall evaluate and accept alternative phytosanitary measures proposed by the NPPO or equivalent institution(s) of the exporting country as being equivalent to the phytosanitary measures required under paragraph (1) of this article if the alternative phytosanitary measures achieve the level of protection applied by Afghanistan. Note: "NPPO" denotes the National Plant Protection Organization; See Items 5 and 6 above for the text of paragraph 1 referred to in this provision.

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<p>8. Risk Assessment: developing scientific evidence and conducting risk assessments to ensure that measures are based on science and applied only to the extent necessary to protect health.</p>	<p>8. Article 5.1, 5.2 and 5.3</p>	<p>Article 19: Scientific basis and Risk Assessment</p> <p>(3) Food safety measures shall be based on an assessment, appropriate to the circumstances, of the risks to human health, taking into account risk assessment techniques developed by international organizations.</p>	<p>Article 16.5:</p> <p>Phytosanitary measures shall be based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.</p> <p>(a) The following shall be taken into account in the assessment of risks: available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.</p> <p>(b) In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of phytosanitary protection from such risk, the following shall be taken into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of Afghanistan; and the relative cost-effectiveness of alternative approaches to limiting risks.</p> <p>(c) When determining the appropriate level of phytosanitary protection, the objective of minimizing negative trade effects shall be taken into account:</p> <ul style="list-style-type: none"> <li>- Measures shall not be more trade-restrictive than required to achieve their appropriate level of phytosanitary protection, taking into account technical and economic feasibility.</li> <li>- With the objective of achieving consistency in the application of the concept of appropriate level of phytosanitary protection against risks to human life or health, or to plant life or health, arbitrary or unjustifiable</li> </ul>

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			distinctions in the levels it considers to be appropriate in different situations shall be avoided, if such distinctions result in discrimination or a disguised restriction on international trade.
9. Regional conditions: measures take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined.	9. Article 6 and Annexes A.6 and A.7	Article 19: Scientific basis and risk assessment  (2) Food safety measures shall not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail, including between Afghanistan and exporting countries.	Article 16.5.a:  The following shall be taken into account in the assessment of risks: available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- free areas; relevant ecological and environmental conditions; and quarantine or other treatment.
10. Non-discrimination: measures do not arbitrarily or unjustifiably discriminate between different members or between domestic and foreign suppliers.	10. Article 2.3, and Annex C.1(a) and (d)		Article 16.5.c:  (c) When determining the appropriate level of phytosanitary protection, the objective of minimizing negative trade effects shall be taken into account: - Measures shall not be more trade-restrictive than required to achieve their appropriate level of phytosanitary protection, taking into account technical and economic feasibility. - With the objective of achieving consistency in the application of the concept of appropriate level of phytosanitary protection against risks to human life or health, or to plant life or health, arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations shall be avoided, if such distinctions result in discrimination or a disguised restriction on international trade.
11. Control, inspection and approval procedures: ensure that procedures, including systems for approval of the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs comply with the Agreement.	11. Article 8 and Annex C.	Article 31: Minimizing negative effects on trade  (1) When determining levels of protection and establishing import inspection procedures, the Food Control Authority shall minimize negative effects on trade.  (2) For any procedure to check and ensure the fulfilment of food safety measures, the Food	Article 12.5:  (5) Inspection, control and assessment procedures shall be non-discriminatory and minimally restrictive to trade, including:  (a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like

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		<p>Control Authority shall ensure that:</p> <ul style="list-style-type: none"> <li>(a) It is undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;</li> <li>(b) The Food Control Authority in order to facilitate the import process for countries interested in Afghanistan adopts the following measures: <ul style="list-style-type: none"> <li>i. At the request of the applicant, the estimated process time for the application shall be provided.</li> <li>ii. Without delay completion of document shall be reviewed</li> <li>iii. inform the applicant in a precise and complete manner of all deficiencies</li> <li>iv. transmit as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary;</li> <li>v. If the application has shortcomings, the Food Control authority, based on the applicant's request, where it is applicable offer explanation of information required for completion of application.</li> <li>vi. Based on the request, the applicant's condition and stage of investigation and shall notify them of any delays in processing;</li> </ul> </li> <li>(c) Information requirements shall be limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;</li> <li>(d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;</li> </ul>	<ul style="list-style-type: none"> <li>domestic products;</li> <li>(b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body shall promptly examine the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant shall be informed of the stage of the procedure, with any delay being explained;</li> <li>(c) information requirements shall be limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;</li> <li>(d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval shall be respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;</li> <li>(e) any requirements for control, inspection and approval of individual specimens of a product shall be limited to what is reasonable and necessary;</li> <li>(f) any fees imposed for the procedures on imported products shall be equitable in relation to any fees charged on like domestic products or products originating in any other Member and shall be no higher than the actual cost of the service;</li> </ul>



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		<p>(e) any requirements for control, inspection and approval of individual specimens of a product shall be limited to what is reasonable and necessary;</p> <p>(f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any foreign country and shall be no higher than the actual cost of the service;</p> <p>(g) the same criteria shall be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;</p> <p>(h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product shall be limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and</p> <p>(i) a procedure shall exist to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.</p>	<p>(g) the same criteria shall be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;</p> <p>(h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product shall be limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and</p> <p>(i) a procedure shall exist to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.</p>