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**Working Party on the  
Accession of Cape Verde**

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## **ACCESSION OF CAPE VERDE**

### Check-list of Illustrative Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Issues for Consideration in Accessions

The following submissions dated 22 December 2003, is being circulated at the request of the Delegation of Cape Verde.

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Check-list of Illustrative SPS Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
1. Standstill: the introduction of new standards, animal health regulations and food safety regulations shall conform to SPS Agreement principles.	1. Generally agreed principle in WTO accession negotiations.	The Government of Cape Verde is committed to complying with requirements of the SPS Agreement. As an LDC, it recognizes that financial and technical resources will be required to achieve the required level of compliance. In such case, Cape Verde will need a transition period.
2. Establishment and operation of a single Contact Point for Information ("enquiry point").	2. Article 7 and Annex B.3.	There is no Enquiry Point for SPS matters. A Contact Point will be set up as soon as possible.
3. Transparency: notification and access to documentation:	3. Articles 7 and Annex B, Also G/SPS/7.	There is no Enquiry Point. Consequently no notifications have been made and other functions of the enquiry point are not being carried out
(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.	These provisions have not been met and will be in compliance when an SPS Enquiry Point is established (as part of the accession process).
(b) establish guidance or law requiring publication of proposed measures at an early stage for comment;	(b) Annex B.5 (a).	As of now, there is no guidance or law requiring publication of proposed measures at an early stage, for comment.
(c) provision in law or administrative procedure to provide copies of proposed measures to WTO Members; and	(c) Annex B.5. (c).	Same as above, concerning notice to WTO Members
(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.	(d) Annex B.5 (d).	Same as in 3.b above.
4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health.	4. Article 2.2.	See Decree No. 63/89 of 14.09, Decree-Law No. 89/92 of 16 July, Decree-Law No. 26/97 of 19 May, Regulatory Decree No. 15/97 of 3 December; Resolution No. 57/97 of 29.12; Decree-law No. 74/97 and Decree-law No. 75/97 both of 29 December.
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.	As of now, there is no legal instrument that establishes or describes or requires animal and plant health, and food safety to be based on 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.	Same as in 3 b. above. Cape Verde is a member of the Codex Alimentarius Commission and the International Plant Protection Convention, but is not a member of the International Office of Epizootics.

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7. Equivalence: members shall recognize different measures that achieve the same level of protection.	7. Article 4.	Although there are no legal instruments to express the equivalence provisions of the SPS Agreement, Cape Verde is not in a position to exercise this provision without establishing a food law and developing the equivalent control measures that most countries have to benefit from this concept.
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.	8. Article 5.1, 5.2 and 5.3.	As a member of Codex, the Codex standards can be applied to establish an acceptable level of protection for food safety. However, assuring the public of this level of protection from unsafe and poor quality food requires control measures which are absent due to legal, infrastructural, financial, and technical capability and to capacity deficiencies.
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.	This provision is currently a non-applicable, since Cape Verde does not have capability or capacity to exercise control measures over imported food, and has little opportunity to do any more but poor control of live animal and plant protection activity.
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).	Same as above
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.	The lack of Control, Inspection and Approval Procedures is the greatest impediment to Compliance with SPS. Many units for control, inspection and approval were created but there is no law and regulations dealing with procedures and systems to approve the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs compliance with the Agreement.

Check-list of Illustrative TBT Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
1. Standstill: the introduction of new standards, technical regulations and conformity assessment procedures should be fully compatible with the TBT Agreement	1. Generally agreed principle in WTO accession negotiations	The Government of Cape Verde is committed to complying with requirements of the TBT Agreement. As a LDC, it recognizes that both financial and technical resources will be required to achieve the level of compliance.
2. Submission of Statement on Implementation	2. Article 15.2 and TBT Committee Decision (G/TBT/1)	Cape Verde has already a WTO Unit. This is a function of the WTO Unit.
3. Establishment and operation of a single Contact Point for Information ("inquiry point")	3. Article 10	There is no Inquiry Point for TBT matters. The future Inquiry Point will be, within the Ministry responsible for Trade, the Trade Policy/WTO Unit.
4. Identification of authority responsible for notifications, publications and other internal procedures to ensure transparency obligations are met on an ongoing basis:	4. Articles 2, 3, 5, 7, 10, 15.2, Annex 3 and G/TBT/1	These provisions have not been met and will not be in compliance until an SPS Enquiry Point is established (as part of the accession process) together with the WTO Unit which is the focal point.
(a) Identification of publication where notices of proposed technical regulations and conformity assessment procedures will appear;	(a) Articles 2.9.1, 3.1, 5.6.1, 7.1, 10.1.5	All laws, rules, regulations, advertisement public notice for the purpose of enforcement must be published in the Official Bulletin, according to the Constitution.
(b) Identification of authority responsible for making notifications to the WTO;	(b) Article 2.9.2, 2.10.1, 3.2, 3.3, 5.6.2, 5.7.1, 7.2, 7.3, 10.7, 10.10	Trade Policy/WTO Unit through the Ministry in charge of Trade Policy.
(c) Guidance/law to ensure regulatory authorities afford non-discriminatory consideration of comments in the preparation of a final regulation;	(c) Articles 2.9.4, 2.10.3, 3.15 3.3, 5.6.4, 5.7.3, 7.1, 7.3	As of now, there is no legal instrument on this issue.
(d) Guidance/law to ensure regulatory authorities allow a reasonable period of time between the final publication of a technical regulation and conformity assessment procedure and its entry into force so that suppliers can adapt;	(d) Articles 2.11, 2.12, 3.1, 5.8, 5.9, 7.1	Measures provided in : the Constitution - Articles 255 to 264; Civil Code - Articles 3, 5 and 7; Decree No. 74/92 of 30 June 1992 - Articles 1, 5 and 6; Decree-law No. 21/2002 of 24 August 2002. There is no reason for applying them under the TBT Agreement.
(e) Publication and notification of work programme for standards and non-governmental conformity assessment procedures, including publication of notices of draft standards and an opportunity for public comment.	(e) Article 4, Annex 3 (J, K, L, N, O); Article 8.1	Same as above.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
5. Development and Application of Technical Regulations and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	5. Articles 2, 3, 5, 6, 7	As of now, there are no legal instruments that establish or describe standards or technical regulations in Cape Verde. Within the Government of Cape Verde, there is no agency or organization responsible for TBT activities.
(a) non-discrimination with respect to the treatment of products;	(a) Articles 2.1, 3.1, 5.1, 5.2, 7.1	Same as above.
(b) the prohibition of unnecessary obstacles to international trade and the consideration of less trade-restrictive alternatives to fulfilling legitimate objectives;	(b) Articles 2.2, 3.1, 5.1, 5.2, 7.1	Same as above.
(c) the ongoing review of technical regulations to ensure they are appropriate to achieve the desired legitimate objective;	(c) Article 2.3, 3.1, 7.1	Same as above.
(d) the consideration of appropriate international standards, guides and recommendations as a basis for technical regulations and conformity assessment procedures;	(d) Article 2.4, 3.1, 5.4, 7.1	Same as above.
(e) the consideration of equivalent technical regulations of other Members;	(e) Article 2.7, 3.1, 7.1	Same as above.
(f) the acceptance of the results of conformity assessment procedures conducted by bodies in an exporting Member country;	(f) Article 6, 7.1	Same as above.
(g) non-discriminatory and cost-based fee structure.	(g) Article 5.2, 7.1, 10.4	Same as above.
6. Development and Application of Standards and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or "reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	6. Article 4 and Annex 3, Article 8	As of now, there are no legal instruments that establish or describe standards or technical requirements in Cape Verde. Within the Government of Cape Verde, there is no agency or organization responsible for TBT activities.
(a) non-discrimination with respect to the treatment of products;	(a) Annex 3 (D), Article 8.1	Same as above
(b) the prohibition of unnecessary obstacles to international trade;	(b) Annex 3 (E), Article 8.1	Same as above.
(c) the consideration of appropriate international standards, guides and recommendations as a basis for standards;	(c) Annex 3 (F), Article 8.1	Same as above.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
(d) non-discriminatory and cost-based fee structure.	(d) Annex 3 (M), Annex 3 (P), Articles 8.1, 10.4	Same as above.

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