

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/ACC/LAO/6/Rev.1**  
26 May 2010

(10-2916)

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**Working Party on the  
Accession of the Lao PDR**

Original: English

## **ACCESSION OF THE LAO PDR**

Checklist of Illustrative Sanitary and Phytosanitary (SPS) and  
Technical Barriers to Trade (TBT) Issues for Consideration in Accessions

### Revision

The following submission, dated 17 May 2010, is being circulated at the request of the Delegation of the Lao People's Democratic Republic (Lao PDR).

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**Checklist of Illustrative SPS Issues for Consideration in Accessions**

Commitments	WTO Reference	Domestic Provisions
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.	1. All new related regulations will be in accordance with SPS Agreement.
2. Establishment and operation of a single Contact Point for Information ("enquiry point").	2. Article 7 and Annex B.3.	2. Articles 7 and 8 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points which is expected to be adopted by the end of 2010. The SPS Enquiry Point will be established and operational at the Ministry of Agriculture and Forestry upon accession to the WTO.
3. Transparency: notification and access to documentation:	3. Article 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.	(a) Articles 5 and 6 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points mandates the Ministry of Industry and Commerce to be responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis.
(b) establish guidance or law requiring publication of proposed measures at an early stage for comment;	(b) Annex B.5(a).	(b) Article 10 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points and Article 7 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009.
(c) provision in law or administrative procedure to provide copies of proposed measures to WTO Members; and	(c) Annex B.5(c).	(c) See (b) above.

Commitments	WTO Reference	Domestic Provisions
(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).	(d) See (b) above.
4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health.	4. Article 2.2.	4. Article 5 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009. For animal and plant health, this requirement will be incorporated into the decrees and regulations implementing the laws related to animal and plant health as indicated in the SPS Action Plan.
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.	5. Part I(1) of the National Food Safety Policy of Lao PDR No. 028/PM, dated 3 February 2009 and Article 5 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009. For animal and plant health, this requirement will be incorporated into the decrees and regulations implementing the laws related to animal and plant health as indicated in the SPS Action Plan.

Commitments	WTO Reference	Domestic Provisions
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.	6. Article 13 of the Food Law No. 04/NA, dated 15 May 2004, and Article 6 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009. For animal and plant health, this requirement will be incorporated into the decrees and regulations implementing the laws related to animal and plant health as indicated in the SPS Action Plan.
7. Equivalence: Members shall recognize different measures that achieve the same level of protection.	7. Article 4.	7. This measure has not yet been incorporated into domestic regulation. Lao PDR does not have the capacity to assess for equivalence of SPS measures and is looking for TA from development partners.
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. Articles 5.1, 5.2 and 5.3.	8. Chapter III(3) of the National Food Safety Policy of Lao PDR No. 028/PM, dated 3 February 2009 and Article 11 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009. For animal and plant health, this requirement will be incorporated into the decrees and regulations implementing the laws related to animal and plant health as indicated in the SPS Action Plan. Lao PDR does not have the capacity to conduct risk assessment and is looking for TA from development partners.
9. Regional conditions: measures take into account the regional characteristics both of the areas from which products originate and the areas to which products are destined.	9. Article 6 and Annexes A.6 and A.7.	9. Lao PDR takes into account the regional characteristics both of the areas from which products originate and the areas to which products are destined. Appropriate law and regulation, however, needs to be developed.

Commitments	WTO Reference	Domestic Provisions
<p>10. Non-discrimination: measures do not arbitrarily or unjustifiably discriminate between different Members or between domestic and foreign suppliers.</p>	<p>10. Article 2.3, and Annex C.1(a) and (d).</p>	<p>10. Article 8 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009. For animal and plant health, this requirement will be incorporated into the decrees and regulations implementing the laws related to animal and plant health as indicated in the SPS Action Plan.</p>
<p>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.</p>	<p>11. Article 8 and Annex C.</p>	<p>11. Food Law No. 04/NA, dated 15 May 2004, Livestock Production and Veterinary Law No. 03/NA, dated 25 July 2008, and the Presidential Decree on Fees and Service Charges No. 03/PO dated 19 November 2008.</p>

**Checklist of Illustrative TBT Issues for Consideration in Accessions**

Commitments	WTO Reference	Domestic Provisions
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.	1. All related regulations will be in accordance with TBT Agreement.
2. Submission of Statement on Implementation.	2. Article 15.2 and TBT Committee Decision (G/TBT/1).	2. Notification procedures of TBT Agreement will be implemented after Lao PDR's WTO accession.
3. Establishment and operation of a single Contact Point for Information ("enquiry point").	3. Article 10.	3. Articles 11 and 12 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points which is expected to be adopted by the end of 2010. The TBT Enquiry Point will be established and operational at the National Authority for Science and Technology (NAST) of the Prime Minister's Office.
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.	4. Articles 5 and 6 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points mandates the Ministry of Industry and Commerce to be responsible for making notifications to the WTO and the Decree requires all relevant ministries to publish their TBT related regulations, to ensure transparency obligations are met on an ongoing basis.
(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.	(a) The notices of proposed technical regulations and conformity assessment procedures will be published in the Government Journal, with respect to standards as covered under Article 22 of the Law on Standardization No. 13/NA dated 26 December 2007. For technical regulations and conformity assessment, this requirement needs reflected in the respective legislation.

Commitments	WTO Reference	Domestic Provisions
(b) identification of authority responsible for making notifications to the WTO;	(b) Articles 2.9.2, 2.10.1, 3.2, 3.3, 5.6.2, 5.7.1, 7.2, 7.3, 10.7, 10.10.	(b) Articles 5 and 6 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points mandates the Ministry of Industry and Commerce to be responsible for making notifications to the WTO.
(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.	(c) Articles 27, 28 and 29 of the Law on Standardization No. 13/NA dated 26 December 2007; and Articles 3 and 14 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points.
(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.	(d) Article 30 of the Law on Standardization No. 13/NA dated 26 December 2007 and Article 14 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points.
(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, 0); and Article 8.1.	(e) Articles 21, 22 and 47 of the Law on Standardization No. 13/NA dated 26 December 2007; and Article 14 of the draft Decree on the SPS and TBT Notification Centre and Enquiry Points.
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.	5. The Law on Standardization No. 13/NA, dated 26 December 2007 which was upgraded from the Decree of the Prime Minister on Management of Standards and Quality of Products and Goods No. 85/PM dated 2 November 1995.

Commitments	WTO Reference	Domestic Provisions
(a) non-discrimination with respect to the treatment of products;	(a) Articles 2.1, 3.1, 5.1, 5.2, 7.1.	(a) Articles 6 and 44 of the Law on Standardization No. 13/NA dated 26 December 2007 and Articles 4 and 8 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009.
(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.	(b) Article 6 of the Law on Standardization No. 13/NA dated 26 December 2007 and Articles 4 and 5 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management No. 518/MoH, dated 18 March 2009.
(c) the ongoing review of technical regulations to ensure they are appropriate to achieve the desired legitimate objective;	(c) Articles 2.3, 3.1, 7.1.	(c) Technical regulations are already subject to regular review.
(d) the consideration of appropriate international standards, guides and recommendations as a basis for technical regulations and conformity assessment procedures;	(d) Articles 2.4, 3.1, 5.4, 7.1.	(d) Articles 7, 19 and 44 of the Law on Standardization No. 13/NA dated 26 December 2007; and Article 11 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management.
(e) the consideration of equivalent technical regulations of other Members;	(e) Articles 2.7, 3.1, 7.1.	(e) This measure has not yet been incorporated into domestic regulation. Lao PDR does not have the capacity to assess for equivalence of TBT measures and is looking for TA from development partners.



Commitments	WTO Reference	Domestic Provisions
(f) the acceptance of the results of conformity assessment procedures conducted by bodies in an exporting Member country;	(f) Articles 6, 7.1.	(f) Article 9 of the Ministerial Regulation on Quality Inspection of Goods, No. 1226/PMO-NAST, dated 17 July 2009.
(g) non-discriminatory and cost-based fee structure.	(g) Articles 5.2, 7.1, 10.4.	(g) Article 6 of the Law on Standardization No. 13/NA dated 26 December 2007 and Articles 4 and 8 of the Ministerial Regulation on the Basic Principles in the Application of Sanitary and Technical Measures for Food Safety Management, Article 14 of the Ministerial Regulation on Quality Inspection of Goods, No. 1226/PMO-NAST, dated 17 July 2009.
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.	6. The Law on Standardization No. 13/NA, dated 26 December 2007 which was upgraded from the Decree of the Prime Minister on Management of Standards and Quality of Products and Goods No. 85/PM dated 2 November 1995.
(a) non-discrimination with respect to the treatment of products;	(a) Annex 3(D), Article 8.1.	(a) Articles 6 and 44 of the Law on Standardization No. 13/NA dated 26 December 2007.
(b) the prohibition of unnecessary obstacles to international trade;	(b) Annex 3(E), Article 8.1.	(b) Article 6 of the Law on Standardization No. 13/NA dated 26 December 2007.
(c) the consideration of appropriate international standards, guides and recommendations as a basis for standards;	(c) Annex 3(F), Article 8.1.	(c) Articles 7 and 19 of the Law on Standardization No. 13/NA dated 26 December 2007, and Article 13 of the Food Law No. 04/NA, dated 15 May 2004.

Commitments	WTO Reference	Domestic Provisions
(d) non-discriminatory and cost-based fee structure.	(d) Annex 3(M), Annex 3(P), Articles 8.1, 10.4.	(d) Article 6 of the Law on Standardization No. 13/NA dated 26 December 2007 and Article 14 of the Ministerial Regulation on Quality Inspection of Goods, No. 1226/PMO-NAST, dated 17 July 2009.

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