

**PREPARATORY COMMITTEE
FOR THE
WORLD TRADE ORGANIZATION**

RESTRICTED

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(94-2535)

**SUB-COMMITTEE ON INSTITUTIONAL,
PROCEDURAL AND LEGAL MATTERS**

RECOMMENDED NOTIFICATION PROCEDURES UNDER THE AGREEMENT ON
SANITARY AND PHYTOSANITARY MEASURES

Report by the Chairman of the Informal Contact Group on Agriculture
as approved by the Sub-Committee on 18 November

1. On the basis of its informal consultations on 22 June 1994 and 18-19 October 1994, the Informal Contact Group on Agriculture with respect to the Agreement on Sanitary and Phytosanitary Measures (the "SPS Agreement") reached substantial agreement on certain notification procedures. In particular, the Informal Contact Group agreed that the attached format for notification of sanitary and phytosanitary measures in conformity with Article 7 and with Annex B of the SPS Agreement¹ should be recommended for consideration by the Committee on Sanitary and Phytosanitary Measures (the "SPS Committee"). In addition, it is recommended that Members of the WTO use the attached format, to the extent possible, for the purpose of notifications made in the period following the entry into force of the Agreement Establishing the WTO and until such time as the SPS Committee has formally decided on a definitive format for notification.
2. With respect to the completion of the recommended format and other procedures relating to the notifications under the SPS Agreement, such as what measures should be notified and at what stage of their development, the procedures to be followed for the submission and distribution of notifications, and how comments on notifications should be handled, there was substantial agreement that the guidelines developed by the Committee on Technical Barriers to Trade with respect to these matters (TBT/16/Rev. 7 refers) could be considered to be generally applicable in the case also of notifications under the SPS Agreement. The recommended format and procedures are attached.
3. In particular it was recommended that, at least in the initial period of operation of the SPS Agreement, in cases where importing members had doubts about the effect of a proposed measure on trade, it should be notified anyway. Furthermore, with regard to Paragraph 5(b) of Annex B of the SPS Agreement, the requirement that notifications "take place at an early stage, when amendments can still be introduced and comments taken into account", the Informal Contact Group recommended that a period of 60 days normally be allowed for this purpose. It was observed, however, that in some cases governments might find it possible only to allow a shorter time period for comments. Nonetheless, if a Member is able to provide a time limit beyond 60 days, it is encouraged to do so.
4. A number of participants in the Informal Contact Group consultations on the SPS Agreement also raised the need for transitional arrangements to address potential problems arising from proposed

¹"Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, Members shall...notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account".

sanitary or phytosanitary measures which might be notified under the existing TBT procedures, but which would take effect under the new SPS Agreement. It was agreed that this concern would be raised to the attention of the Sub-Committee on Institutional, Procedural and Legal Matters, and in particular the view of participants in the consultations on the SPS Agreement that such measures should not be required to be re-notified under the SPS Agreement.

5. The Informal Contact Group on Agriculture with respect to the SPS Agreement undertook an initial exchange of views with regard to the establishment of a procedure to monitor the use of international standards. The need for close cooperation with the relevant international organizations in this undertaking was stressed, and the Secretariat was requested to initiate background discussions with these organizations for this purpose.

Committee on Sanitary and Phytosanitary Measures

NOTIFICATION

1.	Member to Agreement notifying: If applicable, name of local government involved:
2.	Agency responsible:
3.	Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):
4.	Title and number of pages of the notified document:
5.	Description of content:
6.	Objective and rationale:
7.	An international standard does not exist []. If an international standard exists, whenever possible, identify deviations:
8.	Relevant documents:
9.	Proposed date of adoption and entry into force:
10.	Final date for comments:
11.	Texts available from: National enquiry point [] or address and telefax number of other body:

NOTIFICATION PROCEDURES

As agreed in the Informal Contact Group on Agriculture with respect to the Agreement on Sanitary and Phytosanitary Measures, the following guidelines for notification, based on those developed by the Committee on Technical Barriers to Trade, should be considered to be generally applicable with respect to notifications under the Agreement on Sanitary and Phytosanitary Measures until such time as the Committee on Sanitary and Phytosanitary Measures may decide otherwise. The following guidelines have therefore been adapted from document TBT/16/Rev.7 by the Secretariat for purposes of the Agreement on Sanitary and Phytosanitary Measures.

1. Format and Guidelines:

Recommendation:

Information contained in the notification form should be as complete as possible and no section should be left blank. Where necessary, "not known" or "not stated" should be indicated.

<u>Item</u>	<u>Description</u>
(i) Member notifying	Government, including the competent authorities of the European Economic Community, which is making the notification.
(ii) Agency responsible	Body elaborating a proposal for or promulgating a technical regulation or certification system.
(iii) Products covered	HS or CCCN (chapter or heading and number) where applicable. National tariff heading if different from HS or CCCN. ICS numbers may be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
(iv) Title and number of pages of the notified document	Title of the proposed or adopted technical regulation or certification system. Number of pages in the notified document.
(v) Description of content	An abstract of the proposed or adopted technical regulation or rules of certification system clearly indicating its content. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
(vi) Objective and rationale	For instance: (with respect to the SPS Agreement) food safety, animal health, plant protection, etc.

- (vii) Relevant documents (1) Publication where notice appears, including date and reference number; (2) Proposal and basic document (with specific reference number or other identification) to which proposal refers; (3) Publication in which proposal will appear when adopted; (4) Whenever practicable, give reference to relevant international standard. If it is necessary to charge for documents supplied, this fact should be indicated.
- (viii) Proposed dates of adoption and entry into force The date when the technical regulation or certification system is expected to be adopted, and the date from which the requirements in the technical regulation or certification system are proposed or decided to enter into force.
- (ix) Final date for comments The date by which Members may submit comments in accordance with Annex B, Paragraph 5(b) of the SPS Agreement. A specific date should be indicated. A normal time limit for comments on notifications of sixty days has been recommended. A Member may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after forty-five days if no comments or requests for extension of the time limit have been received from other Members within that time. Any Member which is able to provide a time limit beyond sixty days is encouraged to do so.
- (x) Texts available from If available from national enquiry point, put a cross in the box provided. If available from another body, give its address, telex and telefax number. Such indications should not in any way discharge the relevant enquiry point of its responsibilities under the provisions of Annex B, Paragraphs 3 and 4 of the SPS Agreement.

2. Application of Annex B, Paragraph 5 (Preambular Part) of the SPS Agreement:

Recommendation:

For the purposes of Annex B, Paragraph 5 in the SPS Agreement, the concept of "significant effect on trade of other Members" may refer to the effect on trade:

- of one technical regulation only or of various technical regulations in combination,
- in a specific product, group of products or products in general, and
- between two or more Members (countries).

When assessing the significance of the effect on trade of technical regulations, the Member concerned should take into consideration such elements as the value or other importance of imports in respect of the importing and/or exporting Members concerned, whether from other Members individually or collectively, the potential growth of such imports, and difficulties for producers in other Members to comply with the proposed technical regulations. The concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

3. Translation of documents relating to notifications and address of body supplying the documents:

Recommendation:

When a Member seeks a copy of a document relating to a notification which does not exist in that Member's WTO working language, it will be advised, on request, by the notifying Member of other Members that have requested, as of that date, a copy of the document. The Member seeking a copy of a document relating to a notification may then contact such other Members in order to determine whether the latter are prepared to share, on mutually agreed terms, any translation that they have or will be making into relevant WTO working language(s).

- (a) When a translation of a relevant document exists or is planned, this fact shall be indicated on the WTO notification form next to the title of the document. If only a translated summary exists, the fact that such a summary is available shall be similarly indicated;
- (b) Upon receipt of a request for documents, any translated summaries that exist in the language of the requestor or, as the case may be, in a WTO working language, shall be automatically sent with the original of the documents requested;
- (c) Members shall indicate under point 11 of the WTO notification form the exact address of the body responsible for supplying the relevant documents if that body is not the enquiry point.

4. Processing of requests for documentation:

Recommendations:

- (a) requests for documentation should contain all the elements permitting the identification of the documents and in particular, the WTO notification number to which the requests refer. The same information should appear on the documents supplied in response to such requests;
- (b) any request for documentation should be processed if possible within five working days. If a delay in supplying the documentation requested is foreseen, this should be acknowledged to the requestor.

5. **Handling of comments on notifications**

Recommendations:

- (a) each Member should notify the WTO Secretariat of the authority or agency (e.g. its enquiry point) which it has designated to be in charge for handling of comments received, and
- (b) a Member receiving comments through the designated body should without further request
 - (1) acknowledge the receipt of such comments,
 - (2) explain within a reasonable time to any Member from which it has received comments, how it will proceed in order to take these comments into account and, where appropriate, provide additional relevant information on the proposed technical regulations or rules of certification systems concerned, and
 - (3) provide to any Member from which it has received comments, a copy of the corresponding technical regulations or rules of certification systems as adopted or information that no corresponding technical regulations or rules of certification system will be adopted for the time being.