



Committee on Sanitary and Phytosanitary Measures

**REPORT
WORKSHOP ON TRANSPARENCY
MONDAY, 12 OCTOBER – TUESDAY, 13 OCTOBER 2015
WTO, CENTRE WILLIAM RAPPARD, GENEVA**

NOTE BY THE SECRETARIAT¹

The Secretariat of the World Trade Organization organized a workshop on the transparency provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) in Geneva, Switzerland, on 12 and 13 October 2015. This was the sixth SPS workshop on transparency organized by the Secretariat, the first five having been held in 1999, 2003, 2007, 2010 and 2012.²

The workshop was open to all Members, Observer governments and organizations with observer status in the SPS Committee. Various funding arrangements made it possible for a large number of developing country and least developed country (LDC) participants to not only attend the workshop but also the subsequent Committee meeting.³ Approximately 150 participants received hands-on training on how to access and use SPS-related information and how to notify their SPS measures. Participants also shared national experiences and debated how to further improve transparency in this area.

The programme⁴ and presentations of the workshop are available from the "Events, workshops and training" section under the WTO SPS Gateway (http://www.wto.org/english/tratop_e/sps_e/events_e.htm).

1 BACKGROUND OF THE WORKSHOP

1.1. The workshop programme was developed in light of the SPS Committee's recent discussions on transparency, following a joint proposal for actions related to the fulfilment of transparency obligations⁵, submitted in the context of the Fourth Review of the Operation and Implementation of the SPS Agreement. The analysis of the replies to the transparency questionnaire circulated to assess the needs and difficulties of Members⁶ provided further input, as well as specific suggestions from Members. In addition, the workshop provided an occasion to present the on-going project to improve and modernize the SPS IMS and NSS applications.

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

² The reports of these workshops are contained in documents G/SPS/R/16, G/SPS/R/32, G/SPS/R/47, G/SPS/R/60 and G/SPS/R/68 respectively.

³ The WTO funded, through assistance from the Doha Development Agenda Global Trust Fund (DDAGTF), the participation of 51 governmental officials from developing country Members and Observers. Sponsored participants were selected from 328 applications. In addition, the African Union made it possible for 25 participants from French- and English-speaking Africa to participate in the workshop while 12 delegates from Caribbean countries attended with assistance from the Inter-American Institute for Cooperation on Agriculture (both groups used EU funding).

⁴ G/SPS/GEN/1446.

⁵ Joint proposal submitted by Chile, the European Union, Morocco and Norway (G/SPS/W/278), which built on two former proposals regarding transparency (G/SPS/W/274 and G/SPS/W/277).

⁶ Questionnaire circulated in document G/SPS/GEN/1382, and analysis of the replies to the questionnaire in document G/SPS/GEN/1402.

2 OBJECTIVE OF THE WORKSHOP

2.1. The objective of the workshop was to bring together officials from Members' SPS Enquiry Points, National Notification Authorities and other relevant authorities for an exchange of experiences and for hands-on training on the online SPS tools. More specifically, the workshop aimed to:

- Improve participants' knowledge on how to implement and benefit from the transparency provisions and procedures of the SPS Agreement, in particular through the sharing of national experiences;
- Enhance participants' knowledge of the SPS Information Management System (IMS) and the new Notification Submission System (NSS) through the use of practical exercises geared at preparing notifications using the NSS and searching for information using the IMS; and
- Identify possible actions on ways to address issues related to the implementation of the transparency provisions.⁷

2.2. Overall, the workshop focused on Members' experiences in complying with the transparency provisions of the SPS Agreement, such as filling in notifications, tracking notifications, handling comments, and obtaining translations. Participants also received information on WTO sources of SPS-related information, and the updates already made and currently under way to the SPS IMS and SPS NSS. Presentations were made by the WTO Secretariat, the United Nations Department of Economic and Social Affairs (UN-DESA), and developed and developing country Members. The workshop provided an open platform for discussion and sharing of national experiences as well as best practices concerning the implementation of the transparency provisions. A summary of the various sessions of the workshop is provided below.

3 WORKSHOP SESSIONS

3.1 Session 1: Introduction

3.1. The Secretariat provided an overview of the transparency provisions of the SPS Agreement included in Article 7 and Annex B, and of relevant Committee and Ministerial Decisions, in particular the Recommended Transparency Procedures (G/SPS/7/Rev.3) and the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17).

3.2. The Secretariat outlined why transparency was important, for instance for bringing clarity and predictability to the trading system, for providing advance warning, or for improving accountability and responsiveness of the regulatory framework. The main transparency obligations of the SPS Agreement are to: (i) notify draft SPS regulations; (ii) designate a National Notification Authority; (iii) establish an Enquiry Point; and (iv) publish SPS regulations. Beyond obligations, Members can benefit and take advantage of a transparent system, for example by screening other Members' notifications, as was illustrated in subsequent sessions of the workshop.

3.3. The Secretariat also provided details on the notification of SPS regulations, specifically on what to notify, when to notify, which notification formats to use and the main recommended transparency procedures as outlined in G/SPS/7/Rev.3. In addition, the institutional arrangements for notifications were described, specifically the duties and obligations of the National Notification Authority (NNA) and the Enquiry Point (EP). Lastly, the Secretariat provided an overview of the transparency timeline, from the drafting of a regulation to its entry into force.

3.2 Session 2: WTO Sources of Information

3.4. **Session 2** provided participants with a detailed overview of different sources of SPS-related information. These sources were presented by four speakers from the WTO Secretariat and one from UN-DESA.

⁷ These issues emerged from the document on the Analysis of the Replies to the Questionnaire on Transparency under the SPS Agreement (G/SPS/GEN/1402).

3.5. **Mr Stephen Cooper**, WTO Secretariat, presented the new WTO Members' website as a "one-stop shop" for all the relevant information. Mr Cooper provided a detailed explanation of how delegates could access and use the website, as well as an outline of the information available. In particular, delegates could find information on upcoming SPS Committee meetings and related documents, on any Committee document and decision, and on other bodies through search and filter functions. Participants were advised to request login names and passwords from their respective Members' missions to the WTO in order to access all documents, including restricted ones.

3.6. **Mr John Dickson**, WTO Secretariat, provided an overview of the *Documents Online* application, which provides access to all official documentation circulated by the WTO since 1995. The database is updated daily and contains over 100,000 documents in the three official languages. Different search interfaces allow retrieving any document, including SPS-related ones. All information is public, except for restricted documents, which can be accessed with the Members' login names and passwords.

3.7. **Mr Jürgen Richtering**, WTO Secretariat, outlined SPS-related information available at the WTO Integrated Trade Intelligence Portal (I-TIP). Mr Richtering introduced it as a "one-stop shop" for all trade policy measure notifications: it was a comprehensive, analytical and easy to use online tool, which was publically available and provided a unified point of access to all relevant WTO trade policy information on goods, including tariffs and non-tariff measures (NTMs). Users could view SPS measures in the context of other tariff and NTM measures, which could be filtered through specific criteria, viewed and downloaded.

3.8. **Mr Roland Mollerus**, UN-DESA, presented the ePing Toolkit project for accessing SPS & TBT notifications and alerts. The project had been initiated after a needs identification study of LDCs had concluded that one of the existing gaps was the lack of a system to receive alerts of SPS and TBT notifications relevant to their exports. Users can sign up on the pilot platform to receive filtered SPS and TBT notifications via emails alerts, sorting notifications according to specific products or markets of interest. The platform is accessible to all stakeholders, from government agencies to private companies. Mr Mollerus highlighted that the benefits of using ePing included its user-friendly format, the ability to narrow the notifications down according to areas of interest, the option to export search results, and the opportunity to discuss notifications at the national level on the platform's forum.

3.9. **Mr Rolando Alcalá**, WTO Secretariat, presented the SPS gateway⁸ and the new version of the SPS Information Management System (IMS), currently under development. The SPS gateway includes information on Committee meetings, events, training activities etc. It includes information on how to subscribe to receive document alerts for all unrestricted SPS documents by email. The gateway also contains a link to the Members' transparency toolkit, which includes notification templates, and SPS transparency-related documents and materials.

3.10. Mr Alcalá also introduced the SPS IMS⁹, which aims to help enquiry points and notification authorities, as well as other interested stakeholders, to keep abreast of new or modified SPS measures. Since 1995, over 19,000 SPS notifications had been submitted along with over 2,500 other SPS documents and over 390 specific trade concerns (STCs). The SPS IMS facilitates searching and reporting on SPS notifications, SPS documents, and STCs according to a wide range of criteria. It also includes the most up-to-date information available to the Secretariat on the contact details of Members' Enquiry Points and Notification Authorities. It is publicly available in English, French and Spanish.

3.11. Mr Alcalá also provided details on the development of the new SPS IMS system, which would replace the current one. The new system would be more user-friendly and would have enhanced functionalities. In addition to fixing existing "bugs", it would be aligned and harmonized with other in-house systems, have streamlined menus, more intuitive search functionalities, new statistical and graphing functions and new reporting feature. It was expected that the new IMS platform would be available for testing during the first semester of 2016.

⁸ <http://www.wto.org/sps>.

⁹ <http://spsims.wto.org/>.

3.3 Session 3: Practical Session on the Use of the SPS IMS

3.12. Working sessions were organised in English, French and Spanish during which participants were able to use the current SPS IMS system. In these groups, participants were able to familiarize themselves with the different functions of the system by being given a hypothetical scenario of a cocoa exporting country wishing to obtain relevant information. This included conducting searches of:

- a. SPS notifications. Participants learned how to look for a specific notification; how to find notifications made by a specific country; how to find notifications covering a specific product; how to find notifications relating to a specific issue (e.g. contaminants); and how to customize a search;
- b. SPS documents. Participants learned how to find documents produced by the WTO Secretariat; how to find documents submitted by Members and Observer Organizations; and how to find documents concerning a specific issue (e.g. private standards);
- c. Specific trade concerns (STCs). Participants learned how to access information related to an STC; how to identify STCs raised in relation to specific Members or products; and
- d. Information on Enquiry Points and Notification Authorities. Participants learned how to create contact lists of EPs and NNAs with the use of the predefined reports function; and how to find their contact details (e.g. address and phone number).

3.4 Session 4: Sharing of National Experiences

3.13. **Ms Kimberly Redden**, Analyst at the Canadian Food Inspection Agency, presented on Canada's experience in tracking, sorting and distributing SPS notifications. Ms Redden noted that the increased volume of WTO notifications over the past 20 years made sorting through notifications and disseminating key information to relevant stakeholders more challenging. To tackle this, Canada used a two-phased approach: immediate outreach, followed by targeted consultations for government and industry. This entailed first a daily distribution of notifications by email to all stakeholders, followed by a weekly distribution of targeted notifications grouped according to recipients' subjects of interest.

3.14. **Ms Mariam Somé Damoué**, Responsible for phytosanitary controls and SPS National Enquiry Point of Burkina Faso, shared her country's experience with phytosanitary notifications. Ms Somé described the institutional arrangement in Burkina Faso, where the national SPS committee is the relevant platform for discussing SPS-related matters, including notifications. Then Ms Somé presented the phytosanitary notification process: (i) proposal of the draft text of a measure for subsequent review and validation by a working group; and (ii) submission of the measure to the NNA for its notification to the WTO. Ms Somé also explained the process of managing notifications received from the WTO, citing the specific examples of mangoes and sesame seeds. Notifications were typically transferred to relevant focal points, for sorting and distribution. At the end, Ms Somé presented some recommendations, specifically highlighting the importance of: (i) notifying all regulatory requirements for agricultural products; (ii) conforming to international standards, or basing regulations on science where relevant standards are absent; and (iii) improving access of the private sector to SPS-related information.

3.15. **Ms Virginie Spits**, Member of the EU SPS Team, detailed the European Union's coordination practices in handling the life cycle of SPS notifications. Ms Spits remarked that recently the European Union had been looking at whether any changes were necessary with regards to improving its member States' level of implementation of the SPS Agreement and the transparency obligations. The presentation began with an overview of relevant EU authorities for SPS notifications. There is one central EU SPS Notification Authority and Enquiry Point, which acts on behalf of the 28 member States. It is the point of reference for coordinating and monitoring SPS notifications as well as for receiving questions. To better cope with the increased flow of SPS notifications and their distribution to relevant stakeholders, the European Union established its own notification database, which is managed by one person. The database is operated manually, but also functions automatically by downloading WTO notifications twice a day and immediately sending out alerts to a mailing list of experts and stakeholder associations, providing them with more time to comment. Moreover, comments can be received from experts, European member States and stakeholders. They are then transferred to the relevant agency for analysis, and

subsequent submission to the issuing Member. Ms Spits finished the presentation by thanking the Members who play an active role in transparency activities and remarked that the European Union firmly believed that collaboration was the best way to make the SPS world more transparent.

3.16. **Ms Roxana Inés Vera Muñoz**, Coordinator Agreements Unit, Subdepartment of Negotiations, International Affairs Division, presented on the functioning of Chile's National Notification Authority. Ms Muñoz explained that the Chilean system was relatively simple and did not require extensive resources, yet it enabled its NNA to fully comply with SPS obligations. The main tools used to manage notifications are well-trained staff, and a computer with internet access. Four professionals and one coordinator are in charge of managing incoming information and issuing notifications by email. The team uses a shared Excel database with notification lists. Ms Muñoz emphasized that the staff received regular training and that a guidebook on the NNA's operation was available. The NNA receives information on possible notifications from the relevant authorities, which are registered in an internal database. Similarly, notifications received are immediately analysed and circulated through different lists to a wide range of public and private stakeholders. Lastly, Ms Muñoz highlighted that the increase in staff and time spent on notifications was a good indicator of improved transparency, and reiterated the importance of operational manuals.

3.17. **Ms Julia Doherty**, Senior Director of SPS & Agricultural Affairs at the Office of the US Trade Representative, shared the US experience in implementing the SPS obligation to take comments into account. Ms Doherty reminded the participants that according to paragraph 5 of Annex B of the SPS Agreement, Members "shall take the comments and the results of the discussions into account". This ensured accountability, made regulations more secure and accessible, reduced the influence of special interests and thereby created an environment more open to competitive trade and investment. Ms Doherty shared the US definition for "meaningful opportunity to comment", as one where the public was able to critique the proposal and formulate an alternative, and for "significant comments", as relevant points which might require a change in the proposed rule. The internal process for taking comments into account is generally the same for all agencies and provides for good governance by explaining rationale and substance of final rules in light of comments and by providing step-by-step explanations for why comments are consequently accepted or rejected. Lastly, Ms Doherty underscored the need for qualified staff – officials, economists, lawyers – and the utility of spreadsheets for categorising and grouping.

3.18. **Ms Sally Jennings**, Senior Policy Analyst at the Ministry for Primary Industries in New Zealand, highlighted the importance of communication in ensuring transparency. Ms Jennings accentuated three specific points in this regard. First was the importance of inter-agency communication on SPS policy, and the need for staff to be trained on the SPS Agreement obligations. The second point related to the absence of translations – sometimes a major inhibition to communication and thus transparency. Members should work together to share translations of regulations. The last point was on the utility of the internet in facilitating compliance with transparency obligations, by making documents easily accessible. Ms Jennings also provided some tips on how to best include SPS information on government websites by showcasing the practices in New Zealand. The key messages of the presentation were: to make sure that SPS regulations were published, provide training on SPS and transparency, share translations among Members, and use the internet where possible.

3.19. Morocco took the floor to share its experience in handling SPS notifications. Morocco highlighted that the creation of a single national agency responsible for SPS matters, including the NNA and NEP, made coordination much easier and faster. Morocco also gave an overview of how notifications were handled in the country and offered to provide assistance in this regard to other French-speaking African countries.

3.20. Côte d'Ivoire highlighted that the main problem in Africa was the lack of ownership of SPS measures. It was important to have motivated and committed individuals to overcome the lack of political will and to raise awareness among the general public of the importance of SPS measures.

3.21. Belize shared its experience in establishing the Belize Agricultural Health Authority (BAHA), which is one body responsible for plant health, animal health, food safety and quarantine.

3.5 Session 5: 20 Years of Transparency

3.22. The second day of the workshop began with the Secretariat's Overview Regarding the Level of Implementation of the Transparency Provisions of the SPS Agreement, based on the latest annual report circulated in document G/SPS/GEN/804/Rev.8. Since in 2015 the WTO was celebrating its 20-year anniversary, charts, graphics and statistics reflected information from 1995 until 2015, when possible.

3.23. As of mid-September 2015, 153 of the 161 WTO Members had informed the Secretariat of their designated SPS National Notification Authority (NNA) and 157 Members of their SPS National Enquiry Point (NEP). 119 Members out of 161 had submitted at least one SPS notification to the WTO. There were eight Members who had notified for the first time in 2015: Burkina Faso, Central African Republic, Guinea, Haiti, Kyrgyz Republic, Nigeria, Togo and Tunisia.

3.24. Since 1995, there had been a general upward trend in the number of notifications. Considering all types of notifications together, as of mid-September 2015, Members had submitted a total of 19,062 notifications to the WTO. In 2014, the number of notifications had reached a new annual peak of 1,633 and the number of notifications continued to be on the rise in 2015.

3.25. Considering notifications by developing country Members (including LDCs), a similar trend could be observed with a new peak reached in 2014, surpassing for the first time the 1,000 mark. In terms of the share of total notifications by developing country Members, it had consistently been higher than 50% since 2007. As of mid-September 2015, it had reached its highest peak of 73%.

3.26. Looking at the geographic regions from which the notifications originated, the Secretariat noted that over the past 20 years the majority of notifications had come from the North American region, followed by Asia, and then South and Central America and the Caribbean.¹⁰

3.27. Considering relevance of international standards, the Secretariat recalled that the Recommended Transparency Procedures encouraged Members to notify all regulations that were based on, conformed to, or were substantially the same as an international standard, guideline or recommendation, if they were expected to have a significant impact on trade of other Members. The Secretariat noted that it was reassuring to observe that the relevant international standards addressed many emergency situations. Indeed, from 15 September 2014 to 15 September 2015, 95% of emergency notifications had identified a relevant international standard, out of which 99% had indicated that the measure conformed to the relevant international standard. For regular notifications, 53% had identified a relevant international standard, of which 64% had indicated that the proposed regulation conformed to that relevant standard.

3.28. During the past year, the majority of regular notifications had not provided specific dates in the fields "proposed date of publication", "proposed date of adoption" and "proposed date of entry into force". The recommended 60-day comment period checkbox had been selected in 58% of regular notifications.¹¹

3.6 Session 6: Overview of the SPS NSS

3.29. This session focused on the fulfilment of one of the obligations contained in the transparency provisions: notifying SPS measures, whether new or modified. The Secretariat recalled that notifications could be submitted via email, fax or mail, with the notification formats provided on the WTO website. However, they could also be submitted online through the SPS Notification Submission System (SPS NSS). The system made the processing of notifications easier and substantially faster for both, Members and the Secretariat. Notifications were also more

¹⁰ The geographical groupings used rely on WTO working definitions as identified in the Integrated Database (IDB) for analytical purposes (ldb@wto.org). The same groupings are used in the WTO Annual Reports. They can be consulted through the SPS IMS by clicking on "definitions of groups" on the left-hand side menu bar.

¹¹ Annex B, paragraph 5 of the SPS Agreement provides that notifications should take place at an early stage, when amendments can still be introduced and comments taken into account. The Recommended Transparency Procedures state that a 60-day comment period should be provided.

accurate and complete. As of October 2015, 66 Members had been given access and 37 had used it at least once.

3.30. The Secretariat also presented the new, improved SPS NSS. The new system is more user-friendly, corrects "bugs" in the current system, and is based on updated technology in line with other in-house applications such as I-TIP and the TBT NSS. It also supports rich text format, which was a major limitation in the current system for some Members. The Secretariat thanked the Members who had participated in the testing of this pilot platform made available after the 2015 March meeting. Testing and development of the new platform would continue after the October meeting. The Secretariat confirmed that an updated procedural manual would be needed and welcomed any volunteers, thanking Sally Jennings from New Zealand for writing the old guide with contributions from other Members.

3.31. Several Members highlighted the advantage of using the online notification system. It reduced errors and time required to fill in and submit notifications. The new SPS NSS application was expected to be finalized and launched during the first semester of 2016, in parallel with the new SPS IMS.

3.7 Session 7: Practical Session on How to Prepare Notifications (SPS NSS)

3.32. As with the SPS IMS system, participants had the opportunity to use the new SPS NSS system in a hands-on exercise in three language groups. Participants used the test site of the new system to produce a fictional regular notification based on the information provided.

3.8 Session 8: Improving the Implementation and Benefits of SPS Transparency Provisions

3.33. Participants engaged in group discussions based on issues that emerged from the Analysis of the Replies to the Questionnaire on transparency under the SPS Agreement¹², and how these could be addressed. These discussions proceeded in four groups (two in English, one in French and one in Spanish).

3.34. From the transparency questionnaire the following topics emerged:

- a. Difficulties in filling in notifications;
- b. Identifying trade facilitating measures;
- c. Identifying and targeting interested stakeholders;
- d. Handling comments;
- e. Dealing with, and obtaining translations for, notified documents not in one of the WTO languages.

3.35. Each group was assigned two topics for discussion, the first of which was the priority, while the second was to be addressed if there was spare time. Rapporteurs from each group reported on the main issues identified and possible solutions to the plenary.

3.36. English-speaking group A discussed *identifying and targeting interested stakeholders*. The group agreed that bringing stakeholders together was challenging due to a lack of formal organizations, limited participation, difficulties to reach outliers and a lack of SPS knowledge and awareness. Some of the solutions proposed included the development of: (i) criteria for stakeholder engagement; (ii) global to local engagement; (iii) an institutional support structure; (iv) a consumer-based advocacy; and (iv) a legislative framework.

3.37. English-speaking group B first discussed the *handling comments*. The group identified some of the main issues, including how to prioritize and deal with a large volume of comments, how to obtain the opinions of all relevant stakeholders and how to deal with a lack of resources and political will. Possible solutions included holding regular public consultations, developing contact lists of relevant stakeholders, and developing operational manuals for improving coordination. Secondly, the group discussed difficulties in *dealing with, and obtaining translations for, notified*

¹² G/SPS/GEN/1402.

documents not in one of the WTO languages, including the lack of human and financial resources. It was suggested that countries cooperate and share translations, for instance through an informal online platform, akin to the IPPC ePhyto resource page. Additionally, a register of experts available to translate documents pro bono (i.e. retired professionals) could be created.

3.38. The French-speaking group discussed the *difficulties in filling in notifications*, including collecting relevant data, absence of legislation, limited access to internet, and lack of collaboration between the NNA and other competent authorities. Another issue highlighted was the high turnover of staff in charge of notifications. Solutions proposed included: (i) raising awareness and links between political and technical authorities; (ii) training for new staff, including with e-learning modules on notifications; or (iii) South-South technical assistance (as offered by Morocco).

3.39. The Spanish-speaking group first discussed *identifying trade facilitating measures*. A key issue seemed to be the lack of a definition, and possible restrictive measures being notified as trade facilitating, obviating the comment period. Possible solutions put forward by the group were to: (i) request, in accordance with Article 11, a brief justification on the trade facilitating nature of a measure to be included in the notification; (ii) organize a thematic sessions to exchange experiences on trade facilitating measures; and (iii) offer a comment period of 10-15 days for other Members to comment on the trade-facilitating nature of the notified regulation.¹³ Secondly, the group discussed the *difficulties in dealing with, and obtaining translations for, notified documents not in one of the WTO languages*. Possible solutions identified by the group were to recommend and encourage Members to use the supplement notification format, to provide longer comment periods for measures in non-WTO languages (more than 60 days), to ask other developed Members for unofficial translations, and to share these translations in a more informal way, for example by posting them on a website.

3.40. The group presentations were followed by questions and comments which generated interesting discussions on some of the possible solutions identified.

3.41. In his concluding remarks, the Chairperson highlighted the high level of participation and interaction in all sessions of the workshop. He announced his intention to provide a brief report of the workshop to the SPS Committee. He invited participants to reflect on the suggestions made, which could inform future discussions in the Committee.

¹³ Paragraph 13 of G/SPS/7/Rev.3 encourages Members to allow a period of at least 60 calendar days for comments, except for proposed measures which facilitate trade and those which are substantially the same as an international standard, guideline, or recommendation.