



**Procedural Guidance Manual
for the Operation of
the Myanmar WTO Sanitary and Phytosanitary
Enquiry Point and Information Center**

March 2018

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SECTION 1. INTRODUCTION AND SCOPE

Welcome to the Myanmar SPS Enquiry Point

The SPS National Enquiry Point has been established at the Plant Protection Division of the Ministry of Agriculture, Livestock and Irrigation

The Myanmar SPS Enquiry Point has been established to:

Answer all reasonable questions regarding SPS measures from domestic organizations and other WTO Member countries. The Enquiry Point also provides relevant supporting documents. This free and open communication allows trading partners to be aware of and to meet expectations and trade requirements more readily thus contributing to the trade facilitation process and increase trade activity in both imports and exports. The Enquiry Point is an information center where domestic, regional and international stakeholders can request and obtain information about Myanmar's and other country's measures, regulations, standards, test procedures, certification requirements, etc.

The Myanmar SPS Enquiry Point can provide information about:

- ✓ sanitary or phytosanitary regulations adopted or proposed Myanmar
- ✓ control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures in Myanmar
- ✓ requirements for food safety and animal and plant health related to exports to other WTO member countries
- ✓ membership and participation of Myanmar in international and regional sanitary and phytosanitary organizations
- ✓ Myanmar's bilateral and multilateral agreements and arrangements within the scope of the SPS Agreement

Other Functions of the Myanmar SPS Enquiry Point and Information Center:

- ✓ Promote the activity to raise the awareness of at levels, especially stakeholders in the country on SPS issues
- ✓ Work as a portal to provides information on SPS and related issues of other WTO/ASEAN Members in order to promote domestic exports in the world market
- ✓ Works as a Central contact point with SPS contact points in line Ministry's

This procedural manual is intended to facilitate the establishment and effective operation of the Myanmar SPS Enquiry Point required by the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures.

The manual is a practical guide with recommendations on the establishment, functionality and processes for Myanmar SPS Enquiry Point (EP). It is neither a legal interpretation of the Agreements, nor a framework for an ideal Enquiry Point.

Introduction to the WTO SPS Measures

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, inter alia, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

The subject areas covered by the term ‘SPS measure’ are defined quite specifically:

- “ to protect animal or plant life or health within the Member country from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- “ to protect human or animal life or health within the Member country from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
- “ to protect human life or health within the Member country from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
- “ to prevent or limit other damage within the Member country from the entry, establishment or spread of pests.

All SPS measures, which fit these criteria, including generic standards and important health standards, and which apply to bilateral or plurilateral measures, should be notified to the WTO.

Introduction to the WTO Transparency Requirements

Under the WTO SPS Agreement, ANNEX B Transparency of Sanitary and Phytosanitary Regulations: “3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents.”

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures provides a set of principles to which WTO members must conform in their SPS regime. The Enquiry Point acts as a focal point where other WTO Members can request, obtain information and documentation on a Member's SPS Measures, standards and certification procedures, whether impending or adopted, as well as on participation in bilateral or multilateral related agreements, regional standardizing bodies and conformity assessment systems. The obligation to set up an enquiry point is particularly important for Myanmar. It would be a major step for Myanmar towards implementation of the SPS Agreement.

SECTION 2. FUNDAMENTAL REQUIREMENTS OF THE SPS ENQUIRY POINT

THE BASICS

In order to fulfill the obligations to the WTO, standard procedures for processing SPS enquiries are necessary. The implementation of these procedures requires establishing a partnership between the Enquiry Point and state bodies regulating SPS measures. Involving the private sector in assessment of SPS information from Members will significantly enhance Myanmar's economic gains from the WTO membership. This manual therefore includes institutional structure for SPS enquiries and for handling enquiries, and an action plan to develop the necessary partnership with the private sector.

Annex B of the SPS Agreement provides additional requirements that is not specifically linked to the operation of an SPS Enquiry Point, but which the SPS Enquiry Point needs to comply with when providing documents. The effect of this paragraph is to ensure that other WTO Members are not charged more for documents, apart from the cost of delivery, than are nationals of the Member notifying.

The SPS Contact Points in the regulating bodies must have the authority and means to obtain necessary information or analysis promptly from sources within their respective Services. The individuals in the counterpart position must have sufficient technical knowledge about SPS matters to provide necessary documents and information or, when needed, obtain the necessary information from those within the EP or their respective Services with greater technical knowledge of SPS-related developments. The counterpart must continually be aware of proposed changes or proposals for new SPS-related regulations and inform the EP of such. This means counterparts in the SPS regulatory bodies must establish good working relationships with technical experts within their Service. In addition, since English has been designated as the official language for correspondence with the WTO, most SPS enquiries will be received and responded to in English, outgoing responses will be prepared in English and most incoming requests will be in English when available in that language. Therefore, it is important that WTO SPS Enquiry Point staff members and counterparts in the National Contact Points and SPS regulatory bodies have a high level of proficiency in English.

The Enquiry Point will ensure that enquiries from Members and other interested parties are responded to within a reasonable timeframe and by the appropriate expert. The EP will also ensure that all communications to other WTO members will be in the English language. To support the private sector and take advantage of the opportunities WTO membership will bring to Myanmar exporters, the EP staff will ensure that SPS from Members that pertain to traded goods that are critical to Myanmar's export performance are identified, assessed by the appropriate experts and interested private sector parties, and, when appropriate, comments are prepared by relevant experts on proposed SPS measures of other Members.

COMMUNICATIONS

The Enquiry Point must ensure that enquiries from Members and other interested parties are responded to within a reasonable timeframe and by the appropriate expert. The EP will also ensure that all communications to other WTO members will be in the English language. To support the private sector and take advantage of the opportunities WTO membership will bring to Myanmar exporters, the EP staff will ensure that SPS from Members that pertain to traded goods that are critical to Myanmar's export performance are identified, assessed by the appropriate experts and interested private sector parties, and, when appropriate, comments are prepared by relevant experts on proposed SPS measures of other Members.

The EP staff will publicize their services and activities of the Enquiry Point; the EP should develop and make available brochures, provide details on their website. The website and brochures should follow a recommended layout which includes:

- The objective and complete contact details of the EP;
- The type of information that may be obtained from the EP; and
- The services offered (including charges if any).

Publication Requirements

Whenever a measure is being developed in Myanmar that differs from relevant international standards, or international standards do not exist, a notice must be published in the early stage of the development of the standard.

Members are required to provide, upon request, translations of documents requested in English, French or Spanish. Voluminous documents may be summarized. However, the WTO Agreement on Technical Barriers to Trade does not require the publication of texts other than in the language of the Member country.

The Enquiry Point should also serve to circulate information within Myanmar concerning the development and adoption of both national standards and standards of other countries. Although the enquiry point is required only to distribute information to WTO Members and interested members in Member countries, it can also provide valuable services to all organizations in Myanmar. An enquiry point is an important resource for manufacturers to allow them to develop products that meet international standards. Identification of product-specific measures will help to ensure that their products are safe and of high quality. An information center can also be a valuable resource to exporters interested in selling in foreign markets. Knowledge of foreign measures and regulations is vital to successful trade.

While the mode of delivery is at the discretion of the Member concerned, it is recommended that delivery of documents should be by the fastest means possible. In the first instance, if the Member has such facilities, the documents should be sent by e-mail, or by fax. Alternatively, a Member can send the documents by post or via a requesting Member's diplomatic mission in their territory.

Charging for Documents

A country may only charge the same cost for the documents as it would for its own nationals plus the cost of delivering the documents. However, it is not very cost-effective or easy to recover such small amounts as are normally charged for any documents and therefore you are encouraged not to charge as a gesture of goodwill.

The WTO SPS Information Management System

What is the SPS Information Management System (SPS IMS)?

The SPS IMS is a comprehensive database allowing users to search all notified SPS measures and Specific Trade Concerns (STCs) raised in the SPS Committee. Users can also browse information on SPS National Notification Authorities and Enquiry Points, as well as other SPS-related documents circulated at the WTO.

The WTO SPS Information Management System (SPS IMS) is a "one-stop" system to allow users to track and obtain information on SPS measures that Member governments have notified to the WTO, on Member governments' enquiry points, product codes, comment periods and keywords. The WTO SPS gateway is <http://SPSims.wto.org>.

The SPS Information Management System (SPS IMS) is a publicly available database of transparency information provided by WTO Members in relation to technical regulations, measures, conformity assessment procedures, and standards. The objective of the SPS IMS is to enhance implementation of the transparency provisions of the SPS Agreement. It provides access to: WTO Members' notifications of technical regulations and conformity assessment procedures (including subsequent revisions, addenda, corrigenda, and supplements); notifications of bilateral or plurilateral agreements between Members on SPS measures; contact information for Members' SPS Enquiry Points and Notification Authorities; as well as information on specific trade concerns raised in the SPS Committee.

The system allows users to track and obtain information on measures that member governments have notified to the WTO (an obligation for WTO members), specific trade concerns, documents of the WTO's Sanitary and Phytosanitary Measures Committee, member governments' national enquiry points and their authorities handling notification.

The internal version of the system helps the Secretariat produce official documents such as SPS notifications, and in undertaking faster and more comprehensive analyses and reporting on SPS matters.

The public version of the system, available through the WTO website as of 15 October 2007, is expected to help member governments and other interested people find SPS information according to their specific needs.

For example, the system allows searches to be based on a variety of criteria such as geographic groupings, products codes, comments periods, keywords, etc.

To access the SPS IMS: go to <http://spsims.wto.org>

CHAPTER 3. BASIC OPERATION OF THE MYANMAR SPS ENQUIRY POINT

Personnel

The person selected has primary responsibility for managing the duties of the Enquiry Point. It is anticipated that this will take one person approximately 1 - 2 hours per day, but may rise to 4 hours per day on some days. Because the duties must be completed each day, at least two personnel will be trained in the operation.

This allows for absences and commitments to other duties of staff.



Job functions of the Enquiry Point staff

- Communication skills are a major prerequisite for all personnel. Myanmar will communicate with its trading partners primarily through English, which will require staff with strong English writing and speaking skills.
- Knowledge of computers and the ability to communicate electronically will be the primary means of providing and receiving notifications and general communications with the WTO and other Members as well as with private sector organizations.
- Organizational skills – documentation, the ability to properly research and disseminate information is a key skill required for effective operation of the SPS EP.
- A background in standards, measurement and conformity assessment procedures is essential.
- A working knowledge of the international NQI organizations and international information regarding standards, measures and conformity assessment procedures should be developed.
- A working knowledge of the mandates of the various Ministries and agencies to know how to channel communications to those officials with the responsibility and most detailed knowledge of the issue.

Manager of the Enquiry point

- This person should have sufficient authority to ensure cooperation and communication with personnel in other departments and administration of the enquiry point.
- A technical background and education with knowledge of laws pertaining to technical issues, familiarity with the WTO SPS agreement and general WTO procedures desirable.
- Experience in leadership and management skills required

Information Technology and General Office Equipment

The EP will maintain computers with internet access and email facilities. SPS requests will be filed in hard copy or electronically. A log containing the contact details for all Members' Enquiry Points will be kept up to date. All materials will be accessible to all officers involved in operating the EP. Telephones, fax machines, photocopiers and printers will be maintained.

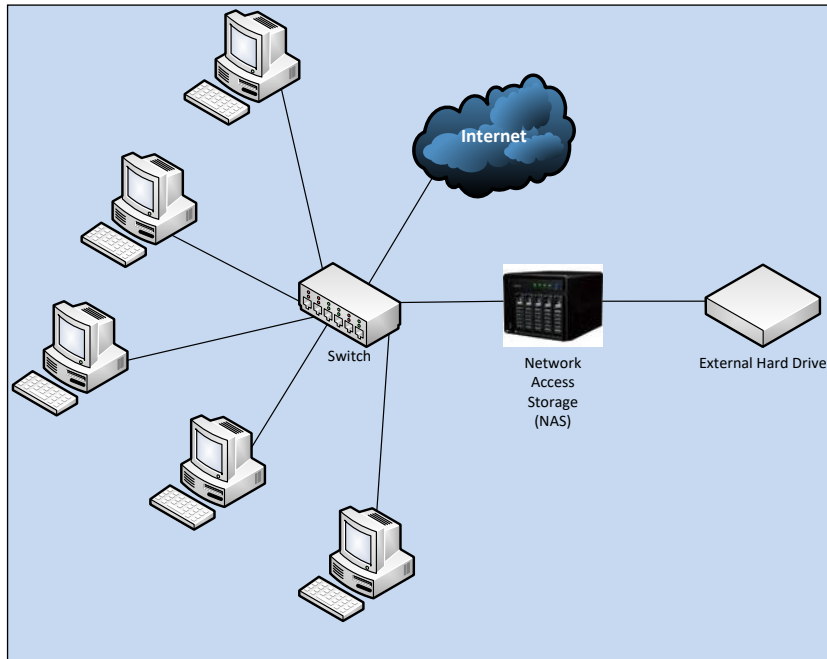


Figure1 Enquiry Point IT System

Computer Software

The Enquiry Point operates most efficiently if there is reliable, regular computer access to internet and e-mail facilities. All materials need to be accessible to all officers and staff involved in operating the EP. Telephones, fax machines, photocopiers and printers also need to be available for use. The notification process relies heavily on efficient communication between domestic stakeholders, and internationally with the SPS Secretariat and other WTO Members. Given that full text documents requested by other Members should be provided within five working days, a modern electronic based system is critical to operating an efficient enquiry point.

It is recommended that the Enquiry Point operates a computer-based system that utilizes a readily available software package such as Microsoft Windows operating system and Microsoft Office software package, and Internet Explorer browser is used to access WTO documents and full texts, which are available on the internet. Note: only original versions of software should be used.

Website Development and Maintenance

A web site should be created and maintained detailing the functions, activities, contact information, procedures, links to other related organizations, etc. The Enquiry Point will create and manage the content of a SPS website, this is important to ensure that the information is up-to-date, accurate, and relevant.

Adding New information

New content for the SPS Enquiry Point website is developed over time by the EP staff. Examples of new content include:

- News about SPS Enquiry Point events;
- Information about a new service or product of the Enquiry Point;
- Other news of interest to users;
- Links to related information (e.g. list of SPS Consultative Committee members and Terms of Reference; Regulation on the Organization and Operation of the Technical Barriers to Trade Enquiry Point).

- New brochures and workshops.

Updating Existing Information

Existing information on the SPS Enquiry Point website should be continually updated by the EP staff if there is something that needs to be added or deleted. The SPS Enquiry Point manager and staff should review the website at least once a month to identify any content that requires updating.

Development of a Filing Structure

The purpose of this procedure is to describe how documents and reference materials used in the operation of the EP will be stored and/or filed.

A basic storage/records management structure as shown in Figure 2 is required. This structure will be used for electronic data storage. A simple, logical filing/records management structure will be established (example shown below). The head of the EP shall be responsible to ensure that all electronic files and data records are maintained, that computers use only authorized licensed software and have anti-virus protection, and that data backup is done on a regular basis.

Where the reference materials are stored electronically, the Enquiry Point will maintain a backup of the information so that damaged or deleted files can be retrieved if necessary. The EP will also establish a “SPS working file” which will provide a temporary place to save email attachments etc., while they are being processed.

SPS notifications will be either saved electronically or in hardcopy folders, and sorted by Member and stored in alphabetical order for an easier reference. However, with the SPS Information Management System (IMS)¹ online system, the EP will not store all notifications. For those notifications that are saved, they will be stored individually by each Member only if they need to do follow-up on that particular notification or if access to the internet is difficult or unreliable.

These facilities are crucial to operating the EP, which relies heavily on efficient communication between domestic stakeholders and internationally with other WTO and ASEAN Members and their businesses. The purpose of this procedure is to describe how the Enquiry Point will store and or file the documents and reference materials used by the staff of the Myanmar WTO SPS Enquiry Point.

A basic storage/records management structure is required. This structure will be used either for electronic or hardcopy storage. A simple, logical filing/records management structure will be established, with files based on:

This procedure applies to the following materials:

Filing Information

The following reference materials should be safely stored in an easily accessible form and place:

- Relevant Notifications
- Comments on Myanmar Notifications
- Full Texts (of notified measures)
- Requests for Full Text SPS
- Committee documents
- Information requests
- SPS Contact Point Correspondence

- In-Country Contacts
- In-Country Distribution lists

SPS Enquiry Point Computer Files and Folders

The following folders/sub-folders should be available on a shared basis internal to the Standards Department of DRI:

1. Folder - Legal and regulatory documents
 - Sub-folders
 - a. Laws pertaining to DRI
 - b. Myanmar technical regulations and Measures
 - c. Technical regulations and measures of other WTO members
 - d. List of products subject to mandatory certification
 - e. Official Gazette
2. Folder – Documentary Standards
 - Sub-folders
 - a. Myanmar national Standards
 - b. Regional Standards
 - c. Foreign Standards
3. Folder - Enquiry Point
 - Sub-folders
 - a. General logs and reports
 - b. Enquiries/responses/outgoing
 - c. Contact Points
4. Folder - Technical committees
 - Sub-folders
 - a. Myanmar members
 - b. Meetings/ memo's
 - c. Working groups
5. Folder – International agreements/cooperation
 - Sub-folders
 - a. MOU/MRA's.
 - b. membership in international and regional organizations
 - c. International cooperation
6. Folder – Library
 - Sub-folders
 - a. Newsletters
 - b. Articles
 - c. Application notes

Details of the filing system

National Standards of Myanmar

The EP will file all national standards of Myanmar in paper and or electronic format. Information about the Myanmar national standards will be entered in a database maintained by the EP.

Other standards and reference material

SPS Enquiry Point staff will file other standards according to organization. Information about the standards in the reference collection will be entered in an inventory maintained by the Enquiry Point (see the diagram below).

Template for maintaining Inventory of Standards and Reference Materials

Type of document	Title	Publisher	Date or Date Range	Complete /Partial Collection	Format	Notes
e.g. Handbook	List of National Enquiry Points Under the SPS Agreement	Asia-Pacific Economic Cooperation Secretariat	2002	n/a	paper electronic	
Standards and Measures		International Electrotechnical	2000 - 2011	partial collection	paper	

Regulatory measures

The EP staff will file all regulatory measures (laws, regulations, decrees, decisions, etc.) of Myanmar that are within the scope of the SPS Agreement in hard copy or as much as possible in electronic format.

Information about memberships

EP staff will record information about memberships in international and regional standards and conformity assessment bodies by the Government of Myanmar, as shown in the below diagram

Information about agreements

The EP will record information about bilateral and multilateral agreements of the Government of Myanmar that are within the scope of the SPS Agreement and the other Agreements that Myanmar is a partner shown in the below diagram.

Myanmar Bilateral and Multilateral Agreements within the Scope of the SPS and the ASEAN Agreement

Title of agreement	Parties of agreement	Date of agreement	Date of entry into force	Subject of agreement	Products covered	Notes
ACCSQ	ASEAN Countries	XXXXXX	XXXXXX	Mutual Recognition		

Other reference materials

The EP will file other information maintained in the collection of reference materials according to type of information (catalogues, bulletins, handbooks, periodicals, journals, etc.) and format (paper or electronic), as shown in the below diagram.

Record Keeping

The EP will keep a record of each request that is received, as follows:

- Date request received
- Information requested
- Date request acknowledged, if not replied to the same day it is received
- Initials of the person who responded to the request
- Status of the request (indicate “completed” when response has been provided)
- Notes (brief description of the response/information provided)
- Client name and contact information
- Type of client (business, government, academia, other)
- Type of enquiry (concerns measures, regulations, conformity assessment procedures, other)
- Country of client
- Enquiry is about (Myanmar, other country, international, regional)

SECTION 4. GENERAL PROCEDURES FOR HANDLING AND PROCESSING ENQUIRES

SPS enquiries will be received by the Enquiry Point from various persons including Government representatives of WTO Members, importers, exporters, domestic and foreign food manufacturing companies, domestic and foreign individuals, and so on. The number of enquiries from abroad that the EP receives will be positively correlated with the magnitude of Myanmar's international trade in goods that are subject to SPS measure.

The enquiries received by the EP will fall into two categories: requests for documents associated with an outgoing notification (e.g., a proposed SPS measure) or information requests². Examples of likely subjects of enquiries are:

- Copies of draft SPS measures described in a notification to WTO members or copies of supporting documents for such measure;
- Laws and implementing regulations governing the development, adoption, and application of SPS regulations and related procedures;
- Documents containing the basis for SPS measures including procedures and means of risk assessment and any reports related to the assessment of such risk;
- Procedures and means of controlling and combating plant pests and animal diseases within Myanmar;
- SPS procedures applied to imported food products, live animals, non-edible animal products, plants, and other regulated articles (articles regulated to control introduction of pests into Myanmar);
- Resolutions concerning the prohibition of domestic circulation and/or imports or exports of certain kinds of food products, agricultural commodities, and agricultural inputs that may affect food safety or animal health (e.g., feed for commercial animals);
- Procedures and means of declaring areas as free of pests or diseases or with low prevalence of such pests or diseases as well as the procedures for maintaining those areas as such;
- Current instructions, requirements and procedures of plant and veterinary quarantine;
- Current regulations for organizing transit of agricultural products and relevant agricultural inputs through Ukraine; and
- Documents regarding the membership or the participation of Myanmar in relevant international and regional organizations dealing with sanitary and phytosanitary measures as well as documents related to bilateral and multilateral agreements related to these measures.

The SPS Enquiry Point should be prepared to answer all reasonable enquiries from other Members and interested parties in other Members as well as to provide the information on the following:

- An enquiry is considered "reasonable" when it is limited to a specific product, or group of products, but not when it goes beyond that and refers to an entire business branch or field of regulations, or procedures for assessment of conformity;
- When an enquiry refers to a composite product, it is desirable that the parts or components, for which information is sought, are defined to the extent possible. When a request is made concerning the use of a product it is desirable that the use is related to a specific field; and
- The Enquiry Point should be prepared to answer enquiries regarding the membership and participation of that Member or of relevant bodies within its territory, in international and regional standardizing bodies and conformity assessment systems as well as in bilateral arrangements, with respect to a specific product or group of products. The EP will be prepared to provide reasonable information on the provisions of such systems and arrangement.
- Any request for documentation will be processed if possible within five working days. If a delay in supplying the documentation requested is foreseen, the EP will acknowledge to the requester, along with an estimate of when the documents can be provided;
- E-mail requests for documentation will include name, organization, address, telephone and fax numbers, and e-mail address in the request; and
- Electronic delivery of documentation will be encouraged and requests will indicate whether an electronic version or hard copy is desired.

Procedure for Responding to an Enquiry

The following steps will be taken by SPS Enquiry Point staff when an enquiry is received:

- If an enquiry is received that can be replied to using the resources of the SPS Enquiry Point, the EP staff will letter, or email according to how the enquiry was received. The format for the email is given in Attachment A; this will be adapted to be used as a cover letter for responses sent by letter.
- For enquiries received by telephone, if an immediate response cannot be given, the staff will respond back when they have an answer. If acceptable to the caller, the EP staff will send the information by email.

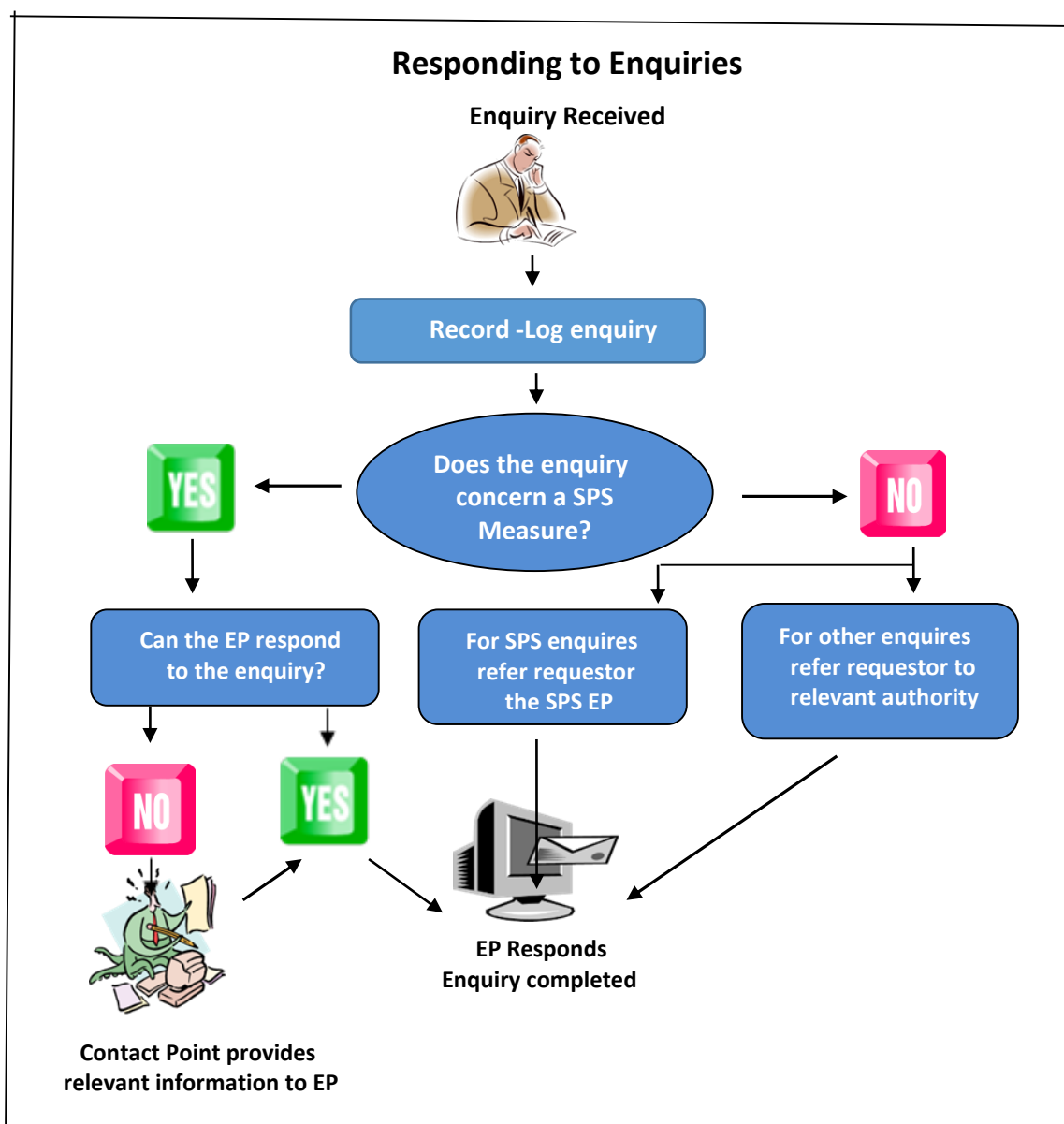


Figure 2 The process for responding to enquiries

Dealing with Requests for Information

These steps are generic to both the SPS and SPS notification process. For SPS enquiries, detailed comment and instruction is provided in Chapter IV of the WTO Handbook titled “How to Apply the Transparency Provisions of the SPS Agreement”.

Step 1: Enquiry arrives at the Enquiry Point

It is important to realize that an Enquiry Point will not be the only organization to which requests are directed. Enquirers will often direct their needs to other organizations, and those organizations are within their rights to respond.

The Enquiry Point should manage enquiries that arrive at the Enquiry Point and that fall within the SPS and SPS Agreements. Enquiry Points with many requests current at one time should also consider logging and tracking incoming requests.

Step 2: Can the Enquiry Point itself respond to the enquiry?

Enquiry Point itself need not provide the response if it is not available within its resources. If the information required is not available internally the Enquiry Point should ensure that a relevant organization does respond.

Step 3: Identification of who should respond

The Enquiry Point should keep information on government departments, local government offices, standards bodies and conformity assessment bodies to assist in identifying appropriate organizations capable of responding to a particular enquiry.

Step 4: Initiation of the response by a third party

The enquiry should be sent to the appropriate person or division within the selected organization with a request that it be answered either directly to the enquirer with a copy sent to the Enquiry Point, or for the response to be sent to the Enquiry Point for forwarding to the enquirer. Annex H contains a generic cover letter that could accompany the request for a response.

Step 5: Dispatch of response

If the Enquiry Point can provide the answer from its own knowledge and resources, the response should be generated promptly. The enquiry should be closed off once a response has been dispatched to the enquirer.

To facilitate the responsiveness of Enquiry Points it is recommended that a copy of the response be also sent to the Enquiry Point in the enquirer's economy.

Although the Agreements do not require it, ideally the response should be delivered by a means at least as fast as the means by which the request was received. When bulky documents are dispatched, consideration should be given to the use of mail (surface or air), diplomatic mission bags, or courier, with the degree of urgency being a major factor in the decision.

Points to Consider

Timeliness: A reasonable time²⁰ should be allocated in which to obtain a response when a third party is requested to generate it. As the time allocated to obtain a response nears expiry, the status of the request should be checked (a progress report obtained). The enquirer should be kept informed if there has been an undue time lapse²¹ between the enquiry being generated and the response delivered.

Charging for Documents

If there is an unavoidable charge, Members may only charge the same cost for the documents as it would for its own nationals plus the cost of delivering the documents. However, it is not very cost-effective or easy to recover such small amounts as are normally charged for any documents and therefore you are encouraged not to charge as a gesture of goodwill.

Requesting Information from a WTO Member Enquiry Point

If an enquiry is received from within Myanmar that concerns the technical requirements for products within the scope of the SPS Agreement to be exported to another WTO member country, the Myanmar Enquiry Point staff should send an email to the relevant Enquiry Point requesting the information on behalf of their requestor.

Referrals

In cases where the Enquiry Point staff is not able to provide a response using its internal resources, the enquiry should be sent to the appropriate person within the relevant ministry's contact point or other organization in Myanmar. The staff will request that the enquiry either be answered

directly with a copy (CC:) sent to the Myanmar SPS Enquiry Point, or for the response to be sent to the Enquiry Point for forwarding to the requestor. See Attachment D for a cover letter or email that could be used to request a response from another ministry or other organization.

For enquiries that refer to SPS measures, the SPS Enquiry Point staff will forward the request to the Myanmar SPS Enquiry Point at the Ministry of Agriculture and Forestry. A letter or email will be sent to the requestor advising them of the contact information for the SPS Enquiry Point. The EP staff will refer requestors to the appropriate authority for enquiries that are not within the scope of the SPS Enquiry Point.

Timing of Responses

Enquiries should be responded to within five working days. If a response cannot be provided within that time (for example, if the Enquiry Point must contact a government authority in Myanmar or another Enquiry Point in a WTO member country to obtain the information requested), the Enquiry Point staff will send an email to the requestor, acknowledging receipt of the enquiry and providing an estimate of the date when a full reply will be sent.

Activities of the Enquiry Point Communicating and Promoting

The Enquiry Point must market its resources to other governmental agencies; professional, trade and industry associations; research and educational institutes; manufacturers; exporters and the general public. Publicity will encourage the use of national standards, assist manufacturers in the development and production of safe products, assist exporters in selling in foreign markets, provide information that would enhance the efforts of researchers and save time by providing accurate, up-to-date information in one central location.

The publicity will describe the various resources available; explain how to obtain information from the information center. This information will be publicized through the web-site, newspaper or magazine advertisements, television advertisements, brochures and through exhibitions.

The WTO recommends that brochures describing the role of Enquiry Point should be published. These brochures should include the following basic information:

- The name and address of the Enquiry point
- The E-mail address and web-site of the Enquiry Point
- The objective of the Enquiry point
- Date the Enquiry Point was established
- The type of information that may be obtained from the EP; and
- The services offered (including charges if any).
- Who can benefit from the Enquiry Point services

The Enquiry Point will also serve to circulate information within Myanmar concerning the development and adoption of both national standards and standards of other countries. Although the Enquiry point is required only to distribute information to WTO Members and interested parties, it can also provide valuable services to all organizations in Myanmar. The Enquiry point is an important resource for manufacturers to allow them to develop products that meet international standards. Identification of product-specific standards will help to ensure that their products are safe and of high quality. An information center can also be a valuable resource to exporters interested in selling in foreign markets. Knowledge of foreign standards and regulations is vital to successful trade.

The Enquiry point staff will conduct a series of awareness seminars/ workshops promoting the services and information that is available from the EP. Audience is other Government organizations, private sector companies and trade associations.

The SPS Enquiries Registry

The SPS Enquiries Registry should be developed and used to ensure a timely response to enquiries by tracking the receipt and forwarding of requests and return of the response to enquiries. The SPS Enquiries Registry must be maintained in electronic format, either in spreadsheet software (e.g., Excel) or data base software (e.g., Access). The information in the registry must be sufficient to identify the request and ensure that the time limitations noted above are met. Elements that should be considered for inclusion in the registry are:

- Date of receipt of enquiry;
- GOU document number (assigned according to standard Government procedures if available);
- Enquiry classification (e.g., sanitary measure, veterinary-sanitary measure, phytosanitary measure);
- Relevant counterpart;
- Date request is forwarded to counterpart;
- Date response from counterpart is received;
- Format of response (hard copy, electronic copy);
- Name of document containing the response;
- Standard coded name for the response document (see discussion on coded names for documents in the section on the SPS measures library);
- Location of response document (e.g., SPS measures library, Service, etc.);
- Available translations (e.g., BR for Burmese n, ENG for English, etc.);
- Date response is sent to requestor;
- Method of transmitting response to the requestor (e.g., e-mail, fax, post, delivery to local embassy or consulate);
- Date notice of delayed response is sent to the requestor if more than five working days are needed to respond.

As noted in Section I, alternatives to the above or additional data fields may be desirable, especially to ensure compliance of the registry database with any standardized GOU document handling guidelines and procedures. Standards such as these should be used to the extent possible to avoid introduction of a new and unnecessary registry system. It is important, however, to ensure that information in the registry may be used to quickly and efficiently identify requests for which a response has not been received, enabling the Centre to follow up on slow responses.

The SPS Measures Library

To enable a quick turnaround, the EP must have all draft and adopted SPS measures on hand in a library. SPS measures (including laws, decrees, regulations, resolutions, instructions,

orders and other legal acts), are drafted and/or adopted by the Government. Therefore, to ensure that the above timelines are met when responding to enquiries, the Myanmar's regulatory bodies must provide copies of their draft and adopted SPS measures to the EP for inclusion in the SPS Measures Library. If draft or adopted measures are available in English or other languages, these documents should also be included in the SPS Measures Library.

Procedure for Reporting

The purpose of this procedure is to describe the monthly and annual reports to be compiled by the management of the Myanmar SPS Enquiry Point.

The Myanmar SPS Enquiry Point staff will keep a record of each request for information that is received, to include the following:

- Date request received
- Information requested
- Date request acknowledged, if not replied to the same day it is received
- Initials of the person who responded to the request
- Status of the request (indicate "completed" when response has been provided)
- Notes (brief description of the response/information provided)
- Client name and contact information
- Type of client (business, government, academia, other)
- Type of enquiry (concerns standards, technical regulations, conformity assessment procedures, other)
- Country of client
- Enquiry is about (Myanmar, other country, international, regional)

SPS Enquiry Point management uses the information from these records to produce monthly and annual reports of the activities of the Enquiry Point. The following information is included in these reports:

- Type of enquiry (e.g. standards, regulations, conformity assessment, general information, SPS)
- Enquiry is about (Myanmar requirements, foreign, international, regional)
- Type of organization (company, government, academia, other Enquiry Point, other)
- Origin (Myanmar, other countries)

For the purposes of this operational manual, the term "SPS Enquiry Point" (EP) is used to describe the designated individual or team who undertakes or facilitates the roles and responsibilities of the Myanmar SPS Enquiry Point.

The following parts of this manual define the EP's functions, responsibilities and general duties. In addition, the manual will establish the minimum requirements for training new staff and for maintaining continuity and consistency in the operation of the EP and explains the operation of an enquiry point and the major tasks that it handles on a routine basis, including the how to handle the following:

- a. General enquires;
- b. Document and information requests;
- c. Delivery and charging;
- d. Contact points;
- e. Filing system; and

f. Staff functions and training.

This manual is a living document and should be updated whenever there is a change in the EP's operational arrangements or governance structure.

At a minimum, the Myanmar EP will maintain catalogs and copies of national standards and standards catalogs of all major trading partners. This basic information will identify and provide lists of relevant national, foreign and international standards, measures and sources for obtaining copies.

Other government agencies will continue to receive direct requests on matters such as those outlined above and they should be free to continue answering them. Enquiries that come to the individual units within government agencies (i.e. not through the enquiry point) can be answered directly and do not need to be processed through the enquiry point system. However, the enquiry point is listed by the WTO as having this responsibility, and must respond to any requests made of it.

Requests to the EP may come from other countries' enquiry points or originate from other interested parties (such as industry groups) in countries, and from non-Member countries. The EP will treat all such enquiries equally, and respond to all reasonable requests for information about the country's SPS Measures. It is best to reply directly to whoever makes the request, but to support the Myanmar EP system, The EP will send a copy of replies (and a list of material supplied) to the relevant country's enquiry point.

Requests for information that are best filled (completely or in part) by another agency should be forwarded to the appropriate agency. That agency should be asked to advise the enquiry point when the request is fulfilled; if this is not done within a reasonable time the EP will remind that agency to do so.

The delivery of documents will be by the fastest means possible. In the first instance, documents will be sent by e-mail or by fax. Alternatively, some documents will be sent by post or via a requesting Member's diplomatic mission in their territory.

If there is a cost associated with the information requested, the EP will charge the same cost for the documents as it would for its own nationals plus the cost of delivering the documents. However, it is not very cost-effective or easy to recover such small amounts as are normally charged for any documents and therefore the EP will not charge as a gesture of goodwill.

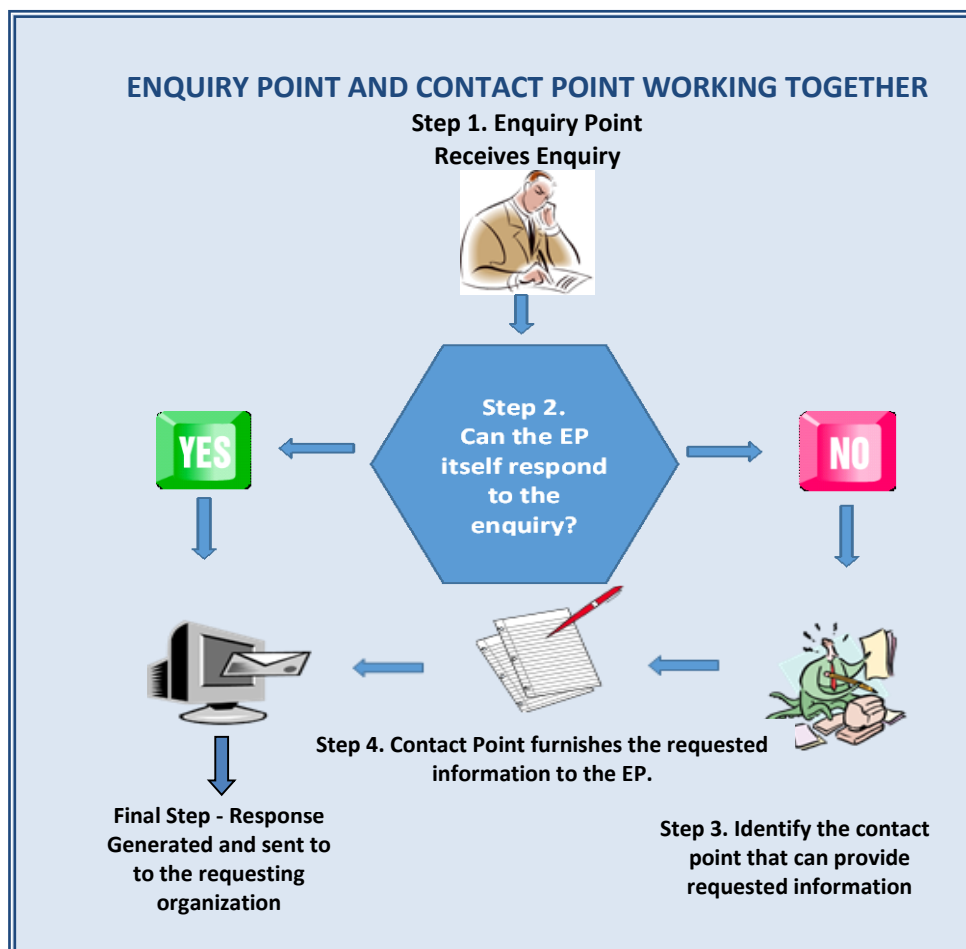
SPS Contact Points

The following ministries in the Union of Myanmar are responsible establishing a contact point for cooperating with the SPS and TBT Enquiry Points to answer questions and provide relevant materials and information:

- Ministry of Construction
- Ministry of Agriculture, Livestock and Irrigation
- Ministry of Health and Sports
- Ministry of Transportation and Communication
- Ministry of Industry
- Ministry of Information
- Ministry of Commerce
- Other relevant authorities

Duties of the contact Points are to:

1. Participate in meetings and seminars, dissemination activities, and training that are related to SPS enquiry and notification activities; and,
2. Seek technical assistance from the national SPS Enquiry Point to improve operations and coordination;
3. Monitor and report on a timely basis the preparation, adoption and implementation of standards, technical regulations, and conformity assessment procedures in their sector to the SPS Enquiry Point ;
4. Upon request by the SPS Enquiry Point the contact point shall provide answers to questions and related information on a timely basis; and,
5. If a SPS question is submitted directly to the contact point, the contact point will forward the question to the SPS Enquiry Point for appropriate action.



The Enquiry Point and Contact Point Communications

Step 1: Enquiry Point receives an enquiry- It is important to remember that the FP may not be the only organization to which requests are sent. Enquirers will often direct their needs to other organizations, and those organizations are within their rights to respond.

Step 2: Can the Enquiry Point itself respond to the enquiry?

If yes, then respond directly. If it is determined that the EP cannot and requires the assistance of a contact point. The EP is responsible to ensure that the relevant contact point does respond.

Step 3: Identification the relevant contact point

The EP should determine the relevant contact point that is capable of responding to a particular enquiry.

Step 4: Initiation of the response by the contact point

The EP should send the enquiry to the contact point with a request that it be answered *either* directly to the enquirer with a copy sent to the Enquiry Point, *or* for the response to be sent to the Enquiry Point for forwarding to the enquirer.

Step 5: Respond to the enquirer

Once the answer is received from the contact point, the EP should response promptly. The enquiry should be closed off once a response has been sent to the enquirer. Although the Agreements do not require it, ideally the response should be delivered by a means at least as fast as the means by which the request was received.

**Myanmar Monthly Report
December 2018**

	Number	% of Total
Type of enquiry		
Standards or Measures	89	65.4%
regulations	28	20.6%
conformity assessment	17	12.5%
general information	8	5.9%
TBT	13	9.6%
Enquiry is about		
Myanmar	82	60.3%
Foreign	24	17.6%
international	30	22.1%
Regional	0	0%
Type of organization		
Company	93	68.4%
government	22	16.2%
Academia	7	5.1%
other Enquiry Point	4	2.9%
Other	10	7.4%
Origin		
Myanmar	122	89.7%
other countries	14	10.3%
Method of contact		
email	72	52.9%
telephone	58	42.6%
visit	6	4.4%
letter	0	0%
fax	0	0%
Total	136	100%

**Sample annual report
2018 Annual Report**

	Number	% of Total
Type of enquiry		
Standards or Measure	1068	60.9%
Regulations	336	19.2%
conformity assessment	204	11.6%
general information	96	5.5%
SPS	156	8.9%
Enquiry is about		
Myanmar	1077	61.5%
Foreign	316	18%
international	351	20%
Regional	8	0.5%
Type of organization		
Company	1237	70.6%
government	387	22.1%
Academia	43	2.5%
other Enquiry Point	51	2.9%
Other	34	1.9%
Origin		
Myanmar	1610	91.9%
other countries	142	8.1%
Method of contact		
Email	978	55.9%
telephone	692	39.5%
Visit	73	4.2%
Letter	2	0.1%
Fax	7	0.4%
Total	1752	100%

ANNEX 1

Sample information forms

TEMPLATE: Letter/fax – making an NEP information request

[Logo or header, etc]

[Insert your agency name]

[Address]

[Telephone number]

[Fax number]

[Email address]

To: [Insert agency name]

Fax: [Insert fax number]

Date: [Insert date]

From: [Insert name]

[Insert title, agency name]

Subject: **SPS NATIONAL ENQUIRY POINT REQUEST – [REQUEST TITLE]**

FILE REFERENCE: [INSERT YOUR REFERENCE NUMBER]

Number of pages (including this cover sheet) 1

Dear [insert name]

Could you please obtain from the relevant government authority information on [insert NEP request details].

Could you please send this information preferably by [mail/email/fax] if possible. Your assistance is greatly appreciated.

Yours sincerely

[Insert name]

[Insert title, agency name]

WTO Myanmar SPS National Enquiry Point

Letter/Fax — Acknowledging Receipt of a SPS-EP Information Request

TEMPLATE: Letter/fax — acknowledging receipt of an NEP information request

[Logo or header, etc.]

[Insert your agency name]

[Address]

[Telephone number]

[Fax number]

[Email address]

To: [Insert agency name]

Fax: [Insert fax number]

Date: [Insert date]

From: [Insert name]

[Insert title, agency name]

Subject: **SPS NATIONAL ENQUIRY POINT REQUEST — [REQUEST TITLE]**

FILE REFERENCE: [INSERT YOUR REFERENCE NUMBER]

Number of pages (including this cover sheet) 1

Dear [insert name]

Thank you for your [letter/fax/email] of [date] requesting the information on [insert details of SPS NEP request].

We have passed your request to [insert name of government authority], which is the relevant government authority for such matters. We will supply the requested information to you once we have received a reply from them.

Yours sincerely

[Insert name]

[Insert title, agency name]

WTO Myanmar SPS National Enquiry Point

Email to Request Information from a WTO Member Enquiry Point

To<insert name of organization>

Subject: Request concerning < subject of request>

Dear <insert name>

AS the WTO SPS Enquiry Point for Myanmar we have received a request for information concerning <insert complete details about the request>

Please provide us with a response as soon as possible

Thank you for your cooperation and assistance.

Yours sincerely

<your name>

Myanmar SPS Enquiry Point

Add your contact information here

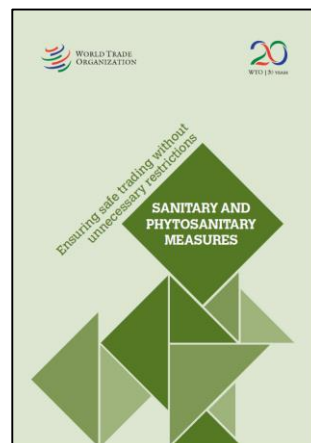
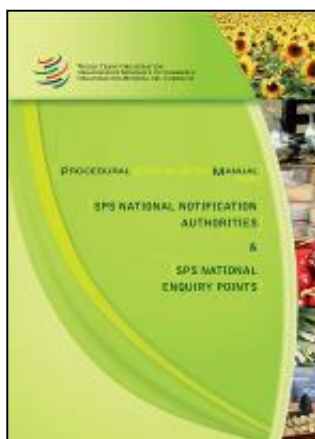
<Fax number>

<Email address>

<website URL>

ANNEX 2

For additional information on operating an SPS Enquiry Point – You can download these WTO Manuals free of charge at www.wto.org



Main standardizing bodies for SPS

- ❑ Codex Alimentarius Commission (CAC)
<http://www.codexalimentarius.net>
Food standards
 - ❑ International Plant Protection Convention (IPPC)
<http://www.ippc.int>
Standards to prevent the introduction of pests of plants and plant products through trade in these products
 - ❑ Office international des épizooties (OIE — World Organization for Animal Health)
<http://www.oie.int>
Standards to prevent the introduction of infectious agents and diseases from trade in animals, animal genetic material and animal products
-

Where you can find out more ...

[1] The full text of the SPS Agreement is at:

<http://www.wto.org/English/tratop_e/sps_e/spsagr_e.htm>.

[2] A publication in WTO Agreement Series covers SPS measures. It explains the Agreement, including differences between SPS measures and TBT, and answers some frequently asked questions. Go to:

<http://www.wto.org/english/res_e/booksp_e/agrmtseries4_sps_e.pdf>.

[3] WTO SPS measures 'gateway' opens a mine of information about the Agreement and SPS developments and activities around the world:

<http://www.wto.org/english/tratop_e/sps_e/sps_e.htm>.

[4] Information about SPS Committee functions and activities can be found at:
<http://www.wto.org/english/tratop_e/sps_e/sps_agreement_cbt_e/c4s1p1_e.htm>.

[5] 'Food safety and agricultural health standards: challenges and opportunities for developing country exports', World Bank Report No. 31207, available at
<<http://www.worldbank.org/trade/standards>>, then search for 'food safety'.

[6] The International Phytosanitary Portal (IPP) at <<http://www.ippc.int>> is the forum for reporting and exchanging of information by governments.

[7] Information about the activities of the World Organization for Animal Health (OIE) can be found at <<http://www.oie.int>>.

[8] The address of the website of the Codex Alimentarius Commissions is:
<<http://www.codexalimentarius.net>>.

[9] This publication can be downloaded at: <<http://www.aciar.gov.au/web.nsf/doc/ACIA-6HZ3TK>>

ANNEX 3

Agreement on the Application of Sanitary and Phytosanitary Measures (the legal text)

Members,

Reaffirming that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

Desiring to improve the human health, animal health and phytosanitary situation in all Members;

Noting that sanitary and phytosanitary measures are often applied on the basis of bilateral agreements or protocols;

Desiring the establishment of a multilateral framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and phytosanitary measures in order to minimize their negative effects on trade;

Recognizing the important contribution that international standards, guidelines and recommendations can make in this regard;

Desiring to further the use of harmonized sanitary and phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring Members to change their appropriate level of protection of human, animal or plant life or health;

Recognizing that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or phytosanitary measures in their own territories, and desiring to assist them in their endeavors in this regard;

Desiring therefore to elaborate rules for the application of the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b)1;

Hereby agree as follows:

Article 1 General Provisions

1. This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.
2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.
3. The annexes are an integral part of this Agreement.

4. Nothing in this Agreement shall affect the rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

Article 2 Basic Rights and Obligations

1. Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.
 2. Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.
 3. Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.
1. In this Agreement, reference to Article XX(b) includes also the chapeau of that Article.

1. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

Article 3 Harmonization

1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.
2. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.
3. Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5.2 Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protection different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.
4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards,

guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.

5. For the purposes of paragraph 3 of Article 3, there is a scientific justification if, on the basis of an examination and evaluation of available scientific information in conformity with the relevant provisions of this Agreement, a Member determines that the relevant international standards, guidelines or recommendations are not sufficient to achieve its appropriate level of sanitary or phytosanitary protection.

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6. The Committee on Sanitary and Phytosanitary Measures provided for in paragraphs 1 and 4 of Article 12 (referred to in this Agreement as the "Committee") shall develop a procedure to monitor the process of international harmonization and coordinate efforts in this regard with the relevant international organizations.

Article 4 Equivalence

1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.
2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

Article 5 Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection

1. Members shall ensure that their sanitary or phytosanitary measures are 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.
2. In the assessment of risks, Members shall take into account 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.
3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, Members shall take 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 the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.

Sanitary and Phytosanitary Measures

4. Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects.
5. With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose

themselves.

6. Without prejudice to paragraph 2 of Article 3, when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.³
7. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.
8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.
3. For purposes of paragraph 6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

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Article 6 Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area — whether all of a country, part of a country, or all or parts of several countries — from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, inter alia, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.
2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.
3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

Article 7 Transparency

1. Members shall notify changes in their sanitary or phytosanitary measures and shall provide information on their sanitary or phytosanitary measures in accordance with the provisions of Annex B.

Article 8 Control, Inspection and Approval Procedures

1. Members shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and Sanitary and Phytosanitary Measures otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.

Article 9 Technical Assistance

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.
2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

Article 10 Special and Differential Treatment

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.
2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.
3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.
4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

Article 11 Consultations and Dispute Settlement

1. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.
2. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this

end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.

3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

Article 12 Administration

1. A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.
2. The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. The Committee shall encourage the use of international standards, guidelines or recommendations by all Members and, in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs.
3. The Committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.
4. The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or phytosanitary measures which the Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason therefor, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.
5. In order to avoid unnecessary duplication, the Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.
6. The Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 4.

7. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, inter alia, to the experience gained in its implementation.

Article 13 Implementation

1. Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. Members shall take such reasonable measures as may be available to them to ensure that non-governmental entities within their territories, as well as regional bodies in which relevant entities within their territories are members, comply with the relevant provisions of this Agreement. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. Members shall ensure that they rely on the services of nongovernmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.

Article 14 Final Provisions

1. The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.

Annex A Definitions

1. Sanitary or phytosanitary measure – Any measure applied:
 - a. to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
 - b. to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
 - c. to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
 - d. to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.
- Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, inter alia, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the

materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

2. Harmonization – The establishment, recognition and application of common sanitary and phytosanitary measures by different Members.

3. International standards, guidelines and recommendations

a. for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;

4. For the purpose of these definitions, “animal” includes fish and wild fauna; “plant” includes forests and wild flora; “pests” include weeds; and “contaminants” include pesticide and veterinary drug residues and extraneous matter.

b. for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;

c. for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and

d. for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.

4. Risk assessment — The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

5. Appropriate level of sanitary or phytosanitary protection – The level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.

NOTE: Many Members otherwise refer to this concept as the “acceptable level of risk”.

6. Pest- or disease-free area – An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

NOTE: A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area – whether within part of a country or in a geographic region which includes parts of or all of several countries -in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.

7. Area of low pest or disease prevalence – An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.

Sanitary and Phytosanitary Measures

Annex B Transparency of sanitary and phytosanitary regulations

Publication of regulations

1. Members shall ensure that all sanitary and phytosanitary regulations⁵ which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.
2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

Enquiry points

3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:
 - a. any sanitary or phytosanitary regulations adopted or proposed within its territory;
 - b. any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
 - c. risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
 - d. the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.
5. Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.
4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals⁶ of the Member concerned.

Notification procedures

5. 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:
 - a. publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;
 - b. 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;
 - c. provide upon request to other Members copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;
 - d. without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.
6. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 of this Annex as it finds necessary, provided that the Member:
 - a. immediately notifies other Members, through the Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);
 - b. provides, upon request, copies of the regulation to other Members;

- c. allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.
6. When “nationals” are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.
7. Notifications to the Secretariat shall be in English, French or Spanish.
8. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.
9. The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.
10. Members shall designate a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 5, 6, 7 and 8 of this Annex.

General reservations

11. Nothing in this Agreement shall be construed as requiring:
 - a. the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 8 of this Annex; or
 - b. Members to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.
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