Program

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SPS Agreement: Obligations of WTO Members

WTO SPS Agreement

- World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)
- SPS-related work in the WTO takes place in the Committee on Sanitary and Phytosanitary Measures (SPS Committee)
  - open to all members of the WTO
WTO SPS Committee

- SPS Committee work is officially recorded in the annual reports to the General Council and in summary reports (equivalent to minutes) of the committee’s meetings
- 2017 meetings
  - 21 March - Informal meetings
  - 22-23 March - SPS Committee meeting
  - 12 July - Informal meetings
  - 13-14 July - SPS Committee meeting
  - 31 October - Informal meetings
  - 1-2 November - SPS Committee meeting

WTO SPS Committee

- Annual reports of the SPS Committee
- Summary reports (minutes) of regular meetings of the SPS Committee
- Major decisions and documents of the SPS Committee
- Working procedures of the SPS Committee
WTO SPS Committee

- **Overview Regarding the Level of Implementation of the Transparency Provisions of the SPS Agreement**
  - G/SPS/GEN/804/Rev.9, 10 October 2016
- **Report (2016) on the Activities of the Committee on Sanitary and Phytosanitary Measures**
  - G/L/1164, 7 November 2016

#### WTO SPS IMS

http://spsims.wto.org
The SPS Agreement sets out the basic rules for food safety and animal and plant health requirements.

The basic aim of the SPS Agreement is to maintain the sovereign right of any government to provide the level of health protection it deems appropriate, but to ensure that these rights are not misused for protectionist purposes and do not result in unnecessary barriers to international trade.
SPS Agreement: Legitimate objectives for sanitary or phytosanitary measures

- To protect human or animal life from risks arising from additives, contaminants, toxins, or disease-causing organisms in their food
- To protect human life from plant- or animal-carried diseases
- To protect animal or plant life from pests, diseases, or disease-causing organisms
- To prevent or limit other damage to a country from the entry, establishment, or spread of pests

Sanitary or phytosanitary measures include:

- Laws, decrees, regulations, requirements and procedures including 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
- Packaging and labelling requirements directly related to food safety

- SPS Agreement, Annex A
What is Transparency?

“degree to which trade policies and practices, and the process by which they are established, are open and predictable”

- WTO Glossary

Requirements for Notification Authority

SPS Annex B Article 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.”
What is a Notification?

“a transparency obligation requiring member governments to report trade measures to the relevant WTO body if the measures might have an effect on other members”

- WTO Glossary

What is a Notification?

- 1 to 2 page summary
- provides WTO members with an opportunity to review and comment
  - sample SPS notification
Notification Procedures

- What to notify?
- When to notify?
- How to notify?

What to Notify?

- If a relevant international standard does not exist
- OR
- If the technical content of a proposed sanitary or phytosanitary measure is not in accordance with international standards
  - AND
- If the measure may have significant effect on international trade

SPS Annex B, Article 5
SPS Agreement
– What is an International Standard?

- For food safety
  - Codex Alimentarius Commission
- For animal health and zoonoses
  - Office International des Epizooties (OIE)
- For plant health
  - International Plant Protection Convention (IPPC)

- SPS Agreement, Annex A

Significant Effect on Trade?

- Determine whether the proposed regulation is "trade significant" taking into consideration
  - value of imports
  - potential growth of imports
  - difficulty for exporters in other countries to comply with the proposed requirements
- Includes both import-enhancing and import-reducing effects
- If it is not known whether a proposed measure will affect international trade
  - notification is recommended in the spirit of transparency
SPS Agreement - What to Notify?

SPS measures - defined as any measure applied to:

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

- WTO definition from SPS Agreement Annex A

Global Trade

More than 80% of global product trade is affected by standards and technical regulations that incorporate standards

Source: Organization for Economic Cooperation and Development (OECD), Regulatory Reform and International Standardization, TD/TC/WP (98) 36, January 1999
To be able to sell their products in foreign markets, exporters must have:

**Up-to-date and complete information** about the requirements their products must meet, including:

- **Standards**
  - e.g. quality, compatibility, processes, performance, test methods

- **Technical regulations**
  - e.g. safety, health, environmental protection, packaging and labeling

- **Testing**

- **Inspection**

- **Certification**
  - e.g. products, systems

A lack of information can itself be a barrier to trade.
Often it is difficult for companies to obtain up-to-date and complete information about the requirements their products must meet.

Recognizing this problem, the SPS and TBT agreements requires the establishment and operation of an **Enquiry Point**.

**Requirements for an Enquiry Point**

**SPS Annex B Article 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 . . .”
Enquiry Point

- Enquiry Point is the central contact point for handling requests for information
- Enquiry Point is responsible for obtaining the answers from the relevant national bodies and replying to the WTO Member making the enquiry

The obligation for each WTO Member to have an Enquiry Point allows Members to easily obtain information about product requirements without having to identify and directly contact the agency responsible in another country.

Responsibilities of the Regulatory Authorities in Ghana
How to meet the transparency requirements of the SPS Agreement?

- Publish proposed sanitary and phytosanitary measures at an early (draft) stage
- Establish a Notification Authority
- Notify other WTO Members of the proposals
- Provide copies of the proposals
- Allow time for comments from other WTO Members and take them into account when finalizing sanitary and phytosanitary measures
- Promptly publish adopted regulatory measures

In Ghana, do you always . . .

- Publish proposed sanitary and phytosanitary measures at an early (draft) stage?
- Establish a Notification Authority?
- Notify other WTO Members of the proposals?
- Provide copies of the proposals?
- Allow time for comments from other WTO Members? Take them into account when finalizing sanitary and phytosanitary measures?
- Promptly publish adopted regulatory measures?
Responsibilities of the Ghana SPS Enquiry Point and Notification Authority

Ghana SPS EP and NA

SPS Enquiry Point
- Ministry of Food and Agriculture
  - Plant Protection and Regulatory Services Directorate

Notification Authority
- Ministry of Trade and Industry
SPS Enquiry Point Responsibilities

- Answer all reasonable questions related to SPS requirements for products sold in Ghana
- Provide relevant documents regarding
  - sanitary or phytosanitary regulations
  - control and inspection procedures, production and quarantine treatment, pesticide tolerance, and food additive approval procedures
  - risk assessment procedures, including determination of the appropriate level of sanitary or phytosanitary protection
  - membership in international and regional sanitary and phytosanitary organizations and systems
  - membership and participation in bilateral and multilateral agreements and arrangements within the scope of the SPS Agreement

Responsibilities of the Notification Authority

- Monitor proposed and adopted regulations
- Determine if significant effect on trade
- Submit notification, including
  - products covered
  - brief summary of proposal
  - objective and rationale
  - etc.
- Provide copies of proposed regulations
- Ensure comments are handled correctly if received
SPS Notifications from Ghana

<table>
<thead>
<tr>
<th>NOTIFICATION</th>
<th>DATE</th>
<th>PRODUCTS</th>
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<tbody>
<tr>
<td>G/SPS/N/GHA/1</td>
<td>29/04/2014</td>
<td>All plant and animal food products</td>
</tr>
<tr>
<td>G/SPS/N/GHA/2</td>
<td>25/02/2016</td>
<td>Invasive alien species of plant, animal and aquatic vertebrates origin</td>
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<tr>
<td>G/SPS/N/GHA/3</td>
<td>25/02/2016</td>
<td>Animals and their meat products</td>
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Functions of the Ghana National SPS Committee
Ghana National SPS Committee

The Ghana National SPS Committee can play an integral role in helping the government of Ghana meet its obligations under the WTO SPS Agreement:

- Provide a mechanism for ongoing input to the implementation of the SPS Agreement
- Provide a formal link to the business sector to facilitate consultation with the government on SPS issues
- Facilitate distribution and discussion of SPS notifications that may have an effect on exports from Ghana
- Coordinate the development of Ghana’s position on trade issues for discussion by the WTO SPS Committee
- Provide a point-of-contact at each regulatory authority
  - useful contacts for the Notification Authority and the Enquiry Point

Ghana National SPS Committee

- Meet on a regular basis
  - recommend at least 3 meetings/year to coincide with the WTO SPS Committee meetings in Geneva
- Review notifications of regulatory measures from other WTO members that may have an impact on Ghana exporters
  - coordinate strategies for responding to those measures
- Review developments in the WTO SPS Committee
- Review the operation and administration of the SPS Agreement with regard to Enquiry Point and Notification Authority obligations
Ghana National SPS Committee

- Written Terms of Reference
  - Scope
  - Objectives
  - Functions
  - Membership
  - Operation
  - Legal framework
  - Funding