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**Assessment of Egypt's Compliance with the WTO Agreements on Technical
Barriers to Trade the Application of Sanitary and Phytosanitary Measures**

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I. EXECUTIVE SUMMARY

This paper provides a status report on Egypt's implementation of the World Trade Organization (WTO) Agreements on Technical Barriers to Trade (TBT) and on the Application of Sanitary and Phytosanitary Measures (SPS). The information for this report was drawn from interviews with involved Ministries and with elements of the private sector that have had contact with the Egyptian TBT and SPS systems. This report focuses on the procedures for establishing and determining compliance with product standards; it does not address the question whether the standards themselves fully reflect the goals set forth in the Agreements. Earlier studies have noted that many Egyptian national standards are not based on international standards and are broader than necessary to achieve legitimate goals of protecting plant, animal, and human health and safety or the environment. These earlier findings are still relevant in assessing whether the Egyptian standards system complies with the letter and spirit of the WTO TBT and SPS Agreements and permits trade to contribute to economic growth and development.

The Government of Egypt emphasizes that its intent is to comply with its TBT and SPS obligations (see text for more details of the two Agreements), and that it has been making efforts in that direction. Significant progress has been made in recent years and these efforts continue. A number of relevant Decrees have been issued and actions towards compliance are underway.

After reflection upon all of the interviews conducted, it is fair to conclude that Egypt is, in fact, moving in the right direction to implement the TBT and SPS Agreements. However, the standard systems currently in place in Egypt do not yet fulfill all of the objectives of the agreements, particularly in the areas of transparency, predictability of application, and freedom from arbitrary manipulation of the testing process. Most importantly, Egypt's practice of inspecting and assessing imports for compliance with nominally "voluntary" standards appears to make these standards mandatory technical regulations which, given the information discussed in the report, are applied on a discretionary and apparently random basis and are not always adequately justified. In this respect, the Egyptian system is inconsistent with the TBT/SPS Agreements.

TBT/SPS Requirements

Before describing the current state of Egyptian implementation of the TBT and SPS Agreements, it is useful to examine what Egypt is obliged to observe. Egypt was a member of the Tokyo Round TBT Agreement while a Contracting Party to the General Agreement on Tariffs and Trade (GATT), the predecessor to the WTO. As a WTO Member, Egypt is automatically required to observe the provisions of the Uruguay Round Agreements on TBT and SPS as part of the single undertaking. The procedural obligations of both Agreements apply equally to all WTO Members and it is generally recognized that these procedures should be in place, i.e., implemented in law and operation, when a country becomes a Member of the WTO Agreement. Article XIV: 4 of the Agreement Establishing the WTO states that: "Each Member shall ensure the conformity of its laws, regulations, and administrative procedures with its obligations as provided in the annexed Agreements."

The TBT Agreement deals with ensuring that technical regulations and standards and conformity assessment procedures do not create unnecessary obstacles to international trade. This is achieved by providing for transparent, open, and fair procedures for the development and implementation of technical regulations and standards. This includes public notice of the development of new technical regulations and standards, the ability for interested parties to comment on the new measures, an adequate time period before implementation and availability of necessary documentation to allow full study of the proposed new regulation. A central contact point that provides full information concerning a Member's technical regulations and standards is also required. The Agreement encourages the adoption of international standards when they are appropriate for each Member country, and, if the international standard is not appropriate, transparent procedures provided for in the Agreement must be employed in development of a domestic standard. The TBT Agreement covers standards and technical regulations applied to both agricultural and non-agricultural goods

The SPS Agreement covers veterinary and sanitary regulations for the protection of human, animal and plant life applied to imports. It utilizes procedures similar to the TBT Agreement. It also focuses on the safety of agricultural products, e.g., pesticide residues, plant and animal diseases, food additives, hygiene, etc. Like the TBT Agreement, the SPS Agreement encourages the use of international standards, such as those produced by the CODEX Alimentarius organization, unless a country feels such standards are insufficiently stringent. If that is the case, the use of a more stringent standard must be scientifically justified or the result of consistent risk decisions based on an appropriate risk assessment. The Agreement requires that all sanitary and phytosanitary measures be applied in a full transparent and consistent manner, be based on scientific evidence, minimize negative trade effects, and take into account relevant economic factors. If any Member believes that a sanitary or phytosanitary measure does not meet the criteria of the Agreement, the Member may request and must be provided with the reason for such a measure. A WTO Member may resort to the procedures of the WTO Dispute Settlement Understanding if it believes that another Member is failing to abide by its TBT/SPS obligations with respect to a product standard.

Testing procedures are particularly important in the SPS Agreement. These procedures must be done without undue delay in a manner no less favorable for imported products than for domestic goods. A procedure must exist to review complaints concerning the operation of control, inspection and approval procedures.

Any effort to ensure that product standards and related regulations in Egypt facilitate rather than inhibit trade must consider compliance with both the TBT and SPS Agreements at the same time. The unique provisions of the SPS Agreement are relevant in assessing any Egyptian technical regulation or standard that qualifies as an SPS measure as the term is defined in the SPS Agreement. .

The provisions of the TBT and SPS Agreements define standards as voluntary measures and technical regulations as mandatory measures. In this paper, the term “ product standards” is used to cover both technical regulations and standards unless otherwise specified.

The Egyptian Standards Formulation Process

The Egyptian Organization for Standardization and Quality Control (EOS) has an excellent procedure for the development of standards that includes some important elements of transparency. These procedures bring the Government of Egypt close to compliance in the corresponding provisions of the Agreements. However, in the view of elements of the private sector, the new procedures have not been sufficient. Furthermore, some WTO members have observed that in the past mandatory standards (i.e. technical regulations) were adopted for some products following the reduction of tariff or quotas on those products. In addition, this study found that a number of TBT/SPS transparency requirements are not being met. For example, the last notification to the WTO of a new or revised standard was apparently made in 1998. Transparency measures, such as those mentioned below, might be appropriate in helping to address some of the foregoing concerns. A special effort needs to be made to ensure that notifications are kept current, that all TBT/SPS transparency requirements are met, and that procedures are adopted for making the work program for standards review and consideration of new standards more readily available.

Product Testing Procedures

In the product testing area, Presidential Decree No. 106 of 2000 consolidated responsibility for coordination of the sampling and testing of imports under the General Organization for Export and Import Control (GOEIC). This consolidation in GOEIC is a major step forward from previous practice and should help to ease some of the burden on imports of multiple testing requirements.

It does not appear, however, that the stated intention of Decree 106 to create a one-stop-testing point has yet been fully realized. The pending creation of a testing facility in Alexandria for beef and poultry will be an excellent test case for whether one-stop-testing will, in fact, be implemented. That GOEIC centralizes the collection of samples is also a significant improvement in the importing process. In addition, the consolidation of testing manuals by GOEIC will facilitate the trade process and make it easier for producers to meet current standards and technical regulations. To continue to improve the testing system, GOEIC will need to expand and improve inter-Ministerial co-operation, provide for better training of personnel, and update its equipment.

The problems uncovered during the review of the product testing system in Egypt do not appear to affect all business entities equally. According to anecdotal reports from the private sector, the system can be, and is, manipulated. This undermines the integrity of the system. Manipulation must be eliminated, perhaps in part through greater transparency in the system and limiting government regulation (i.e., technical regulations and conformity assessment) to those things that should appropriately be regulated (i.e., health, safety and environmental measures).

An important element in both the TBT and SPS Agreements is transparency, i.e., a full exposure to the public of the activities that concern them. Private sector interests interviewed for this report maintain that there is not enough transparency, either in the

standards development process or in testing procedures. Government Officials maintain that there are sufficient procedures to provide full transparency. If this difference in perception exists, clearly steps must be taken to bring these perceptions closer together. More and wider publication, wider circulation of and public hearings on draft standards, advance notification of pending decrees, full publication of testing requirements and procedures, and improved compliance with WTO notification requirements are possible solutions. In addition, greater utilization of the latest technology (e.g., development of a website) should also help.

Special Problems Regarding Food Products

Most problems for imports in the TBT/SPS areas are in the agricultural sector. The existing requirement that all agricultural products be subject to sometimes multiple testing, even under the centralization provided by GOEIC, remains a serious impediment to trade, and does not appear to be consistent with WTO requirements. For example, many technical regulations for beef and poultry, even taking into consideration physical conditions in Egypt, remain trade barriers.

The Government of Egypt has not adequately addressed the WTO implications of mandatory shelf-life requirements for imports. There are unquestionably valid reasons for seeking to ensure that the products sold are wholesome and safe. Egypt, however, has chosen an arbitrary requirement on shelf-life dating that does not adequately reflect conditions of handling and storage, which are arguably far more important to the quality of goods for sale. In addition, the views of manufacturers, importers and consumers should be taken into account. Mandatory shelf-life requirements should not be considered a goal in and of themselves, but rather a guide for consumers, and open to determinations based on sound science. The steps noted in annex D that Jordan and Oman took on shelf-life in the context of their accession to the WTO offer guidance on what Egypt may have to do to resolve this problem.

The questions of confusion between health, safety and sanitary concerns with quality concerns remain. The justification for some requirements of taking into consideration the “consumption patterns of the Egyptian people” when developing standards may best be left to the marketplace. EOS is conducting a review to address this issue and others, indicating that it intends to eliminate quality considerations from existing standards. Also, EOS’s efforts to use CODEX and other international standards will solve multiple problems.

Many of the foregoing problems regarding the substance and application of Egyptian standards, technical regulations, and sanitary and phytosanitary measures were exhaustively examined in the 1996 and 1997/98 studies and their findings must also be taken into account in assessing the current functioning of the product standards system.

Technical Assistance

In interviews with various Ministries, the required assistance most mentioned included: (a) training of personnel, (b) upgrading of computers and other equipment, and (c)

funding for travel to attend international and other meetings relevant to TBT and SPS issues in Geneva and the United States.

Recommendations

The Egyptian Government should move to eliminate the barriers to trade embodied in its system of application of standards and technical regulation to imports. In particular, it should increase transparency in the system, comply with TBT/SPS transparency requirements, improve its testing facilities, and eliminate qualitative elements in the current set of standards.

More fundamentally, the Egyptian Government should eliminate the possibility of testing imports for compliance with nominally “voluntary” standards. In terms of compliance with the TBT Agreement, the current system, when applied to imports into Egypt, in effect converts voluntary standards into mandatory technical regulations in violation of the requirement that such measures not create unnecessary obstacles to international trade or constitute a disguised restriction on international trade. This result also raises issues of transparency and predictability in the operation of the standards system vis-à-vis imports.

II.

TECHNICAL BARRIERS TO TRADE AND SANITARY AND PHYTOSANITARY MEASURES IN THE WTO

Standards-related measures have always been covered in a general way under Articles III, XI and XX of the GATT. The Agreement on Technical Barriers to Trade (TBT) was negotiated during the Tokyo Round of multilateral trade negotiations in order to elaborate further disciplines applicable in this area. There were approximately 47 signatories to the Tokyo Round TBT Agreement representing a broad cross-section of developed and developing countries. With implementation of the World Trade Organization, all WTO members are now bound by the TBT Agreement, which was updated, clarified and expanded as a result of the Uruguay Round multilateral trade negotiations and the new Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). The TBT and SPS Agreements are designed to retard creation of unnecessary obstacles to trade and to accord national and non-discriminatory treatment to imported products; to ensure that TBT and SPS requirements are not used to block trade.

A. The Agreement on Technical Barriers to Trade (TBT)¹

As a result of the Uruguay Round negotiations, multilateral agreement was reached to expand and clarify the Tokyo Round TBT Agreement. Operationally, many of the requirements remained the same, i.e.: those requiring the establishment of an inquiry point to respond to requests for information and to make notification of proposed standards-related measures to the Secretariat, a central publication which contains information on the proposed and final requirements, etc. However, the Agreement now applies to: (a) the full range of conformity testing procedures, not just testing, and (b) non-governmental regional standards development and sub-central governmental bodies.

Background

Aims: The TBT Agreement is the first internationally binding agreement between governments in the field of standardization that provides a venue for complaint and redress in the event of violations by other signatories. The TBT Agreement does not attempt to abolish ALL trade restrictions resulting from the application of standards (voluntary), technical regulations (mandatory), and procedures used to demonstrate conformity to them (for example, testing, inspection, certification and quality system registration requirements). Its aim is to prevent and remove unnecessary barriers to trade. The Agreement does not establish specific technical regulations, testing methodologies or certification schemes as these fall within the activities of other international institutions and organizations.

¹ For a fuller discussion of the TBT and SPS Agreements, see “Business Guide to the World Trading System” by the UN International Trade Centre and the Commonwealth Secretariat. Copies in English and Arabic are available at USAID Cairo and FTS. The publication is particularly good in explaining the interrelationship of the TBT and SPS Agreements.

The Agreement's goals are to encourage use of international standards; to ensure that signatories and interested parties are kept informed by notifying the WTO Secretariat of any standards proposals that could effect trade; to provide an opportunity for comment and for due consideration to be given to those comments prior to enactment; and to ensure the availability of information on any existing technical requirements relevant for a Member's market through the establishment of a central contact point to respond to routine requests for information.

Scope: The Agreement's provisions are applicable to technical specifications ("standards", if their application is voluntary; "technical regulations" if they are mandated by a government authority), and conformity assessment procedures covering both agricultural and industrial products. Technical regulations and standards are defined to apply to documents that cover product characteristics or their related processes and production methods. The obligations are binding on central governments, with central governments obligated to take reasonable measures to ensure compliance with certain obligations by state and local governments, and non-governmental bodies.

Provisions: Specific provisions have as their aim:

- to avoid the creation of unnecessary obstacles to trade and to ensure that technical regulations are not more trade restrictive than necessary to fulfill a legitimate objective;
- to accord national and non-discriminatory treatment to imported products;
- to encourage governments to participate in the development of international standards and to use them, whenever appropriate, as a basis for their technical regulations;
- to ensure that Members and interested parties within their territories are kept informed of standards or technical regulations under development by notifying the WTO Secretariat of any such proposal that could affect trade, are provided an opportunity for comment and due consideration is given to those comments as a proposal is finalized; and,
- to ensure the availability of information on any existing technical requirements relevant for a member's market through the establishment of a central contact point to respond to routine requests for information.

A Committee on Technical Barriers to Trade, comprised of WTO members, meets routinely to discuss common issues and exchange information on implementation of the Agreement.

While the TBT Agreement continues to apply to both agricultural and industrial products and now includes their related PPMs, sanitary and phytosanitary measures --as defined in Annex A of the Agreement on Sanitary and Phytosanitary Measures-- are excluded from coverage under the TBT Agreement.

Implementation

Article 15.2 of the TBT Agreement requires WTO members to provide information on "measures in existence or taken to ensure the implementation and administration of this Agreement." The Agreement allows each Member to determine how best it can meet the requirements, in particular, those for:

-- non-discrimination, and,

-- transparency: this includes existence of a central publication; ability to publish proposed regulations, provide notification through the WTO Secretariat and take into account public comments, and respond to reasonable, routine requests for information through the establishment and operation of a central contact point ("inquiry point").

The TBT Committee agreed to recommendations concerning the operation of the Agreement, including on the format and guidelines for notification.² Annex A contains an outline of the TBT Agreement.

B. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)

The SPS Agreement establishes the first effective international rules to distinguish trade-protectionist measures from legitimate import regulations to ensure food safety or to otherwise protect the health of people, animals and plants. This was necessary to prevent countries from avoiding market access requirements of the WTO Agriculture Agreement by replacing their old trade barriers with new "health-related" import regulations that have the same trade-restricting effect.

Background

Aims: The SPS agreement is designed to curtail import restrictions that are based on arbitrary and unsubstantiated health and safety concerns. Perhaps more important, it is intended to prevent countries from avoiding the other WTO commitments to open up their markets. For example, to get around access commitments, some nations could be tempted to turn their old trade barriers into new "health-related" import regulations that have the same trade-restricting effect. With the SPS agreement and its requirements, countries must base any SPS measures that are intended to protect consumers from unsafe imported products, or to protect domestic crops and livestock from the introduction of foreign pests and diseases, on internationally recognized scientific principles supported by scientific evidence.

- SPS rules set a scientific standard for applied measures that restrict imports on the basis of health or safety concerns. They are designed to curtail current import restrictions that are based on arbitrary and unsubstantiated health and safety concerns through transparency (same as for TBT), due process, and reliance on sound science.

² See WTO document-G/TBT/1/Rev.7, 28 November 2000). See TBT page under the "Trade Topics" section on the WTO website.

- Each country is free to set its own food safety and animal health and plant health standards based on risk assessment and its determination of an acceptable level of risk. This includes not penalizing a whole country for conditions limited to one region. Alternatively, countries may use international standards, e.g., those of Codex Alimentarius.
- To promote harmonization, the Agreement encourages governments to establish national SPS measures consistent with international standards, guidelines and recommendations. However, the Agreement preserves the right of countries to maintain standards which are stricter than international standards, provided that stricter measures are justified by science or by a non-discriminatory lower level of acceptable risk.
- Without these requirements, countries could falsely claim that new regulations were needed to protect consumers from unsafe imported products, or to protect domestic crops and livestock from the introduction of foreign pests and diseases.

Scope: The SPS Agreement “applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade.” Sanitary and phytosanitary measures are defined in Annex A to be:

"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. ..."

Provisions:

The disciplines in the SPS Agreement are tailored to the types of trade problems, which arise from their application. While many of the disciplines, such as the core features of non-discrimination, use of international standards, and transparency, have parallels with the TBT Agreement, the SPS Agreement has certain unique provisions. Specific provisions include obligations to ensure, in general:

(a) that any SPS 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;

(b) that SPS 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; and other provisions regarding the assessment of risk and determination of the appropriate level of sanitary and phytosanitary protection; and,

(c) that measures are adapted to regional conditions within countries, including the existence of pest- or disease-free areas and areas of low pest or disease prevalence.

Implementation

Like the TBT Agreement, a Committee comprised of WTO members oversees the administration of the Agreement. The SPS Agreement also contains in Annex B obligations for transparency (publication, notification, opportunity for comment, establishment and operation of a central enquiry point) that (operationally) parallel those of the TBT Agreement. The Agreement also includes in Annex C provisions on control, inspection and approval procedures. The SPS Committee has issued several documents to assist countries to comply with the agreement and to understand its provisions; these include a Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures” (G/SPS/12 of March 11, 1999) with an attachment on notification procedures (G/SPS/7/Rev.1). The WTO Secretariat issued a “Handbook on How to Apply the Transparency Provision of the Agreement” in November of 2000.³ Annex A contains an outline of the SPS Agreement.

³ These documents are all available on the WTO website in the SPS section of the “Trade Topics” section.

III.

EGYPTIAN STANDARDS AND QUALITY CONTROL REGIME—LEGAL FOUNDATIONS AND RECENT REGULATORY CHANGES

The Process of Establishing and Reviewing Standards

The foundation of the Egyptian standards systems is the Egyptian Organization for Standardization and Quality Control. (EOS). All products standards in Egypt are formulated and set by EOS. Presidential Decree No. 392 of 1979 created EOS in its present form. The functions of EOS include: issuing standards and technical specification for raw materials and industrial products, testing conformity with established standards, issuing quality marks to local industrial products to specific standards, and training.

The standards formulation process is described in Part V (Interview Results). This process covers technical regulations and standards covered by the TBT Agreement and measures covered by the SPS Agreement. The process involves recommendations from ministries and the private sector regarding what standards should be established, a work program established by EOS working with over of 100 technical committees to develop a standard, a comment period which generally last two months and publication of a notice in the official journal (Wakayeh) and in relevant local newspapers that the standard has been adopted. The foregoing procedures do not appear to be spelled out in the decree establishing EOS or implementing decrees.

Review of Existing Standards

As noted elsewhere, EOS has launched a program to update all standards. By the end of 2001, EOS expects to have reviewed the standards issued through the end of the 1970's and, by the end of 2003, intends to have reviewed all standards. EOS hopes to review all standards in the future periodically to ensure that they are relevant to current requirements. However, this program for updating standards does not appear to be mandated by any decree that ensures that the work is accomplished and that interested parties are informed of its results.⁴

Progress in conforming Egypt standards to international standards appears to be limited to date. One 1999 report indicated that only 25 to 30 percent of Egyptian standards conform with international standards and since 1992, less than 20 percent of the standards issued a year on average had been equivalent to ISO or IEC standards.⁵

Regime for Domestically Produced Goods

⁴ For a description of the initial work done on reviews, see reports of DEPRA project –Review of Selected EOS Food and Manufactured –Durable Goods with Respect to International Norms (2Oct 97) and (March 1998).

⁵ Source, WTO Secretariat Report prepared for the 1999 TPRM review.

Quality Control Measures—Legal Framework Applicable to Domestically Produced Goods

Certain products must be produced in accordance with Egyptian standards. The Ministry of Industry and Mineral Wealth (MOI) is primarily responsible for issuing decrees making standards mandatory and does so on its own initiative or at the request of another ministry (usually Health or Agriculture.)

The Mandatory Standards: The list of mandatory standards is contained in MOI Decree No. 179 of September 18, 1996 “Enforcing the Obligation To Produce According to Egyptian Standard Specifications”. Decree 179 in its operative Article 1 provides that “Manufacturers producing the commodities and products indicated in the attached list - shall abide by the commitment to produce according to the Egyptian Standard Specifications related thereto as indicated next to each product.” This list contains over 370 items and has been amended several times.⁶ Apparently the Ministry of Health and the Ministry of Agriculture can also issue decrees making standards mandatory.⁷ However, all of the standards are standards that were established by EOS in accordance with the procedures discussed above.

In addition to the mandatory standards, the Ministry of Health (MOH) and Ministry of Agriculture (MOA) have also issued by decree technical specifications that food and agricultural products must meet. In particular, the Ministry of Health has specified in MOH Decree No. 411 of 1997 the permitted food additives and in MOH Decree No. 475 of 1995 the acceptable preservatives and concentration that can be used in food.⁸ The Ministry of Agriculture has specified the maximum pesticide residue levels and the prohibited plant pest and diseases by commodity and by exporting country. These specifications are sometimes referenced in the product quality standards issued by EOS.

Use of non-Egyptian Standards: Producers do have authority to use non-Egyptian standards in cases where no mandatory Egyptian standard exists. MOI Decree No. 180 specifies that “one of the following standards specifications shall be reckon with: (1) Egyptian Standards Specifications, (2) International Specifications (ISO/IEC), (3) European Specifications (EN) and in their absence, they shall be substituted by the following specifications: (BS - DIN - NF), (4) the US Specifications (ANS), (5) the Japanese Specifications (JIS), and (6) the Specifications as issued by the International Committee’s (CODEX) Specifications for Food. A producer can only take advantage of this flexibility if the product or commodity is wholly subject to one specification, without items in it being covered by more than one specification.”⁹ In the absence of an Egyptian

⁶ For amendments see for example Ministry of Industry decrees No. 1 of January 1, 1997 removing certain soaps and fabrics, threads and carpets; No. 84 of May 14, 1997 removing shaving cream, tooth paste and deodorant;

⁷ For a fuller discussion of the way standards become mandatory, see section 3.2 of DEpra project study “Research Study of the Quality Control System in Egypt, vol. 1, July 1996. Appendix F of this publication contains a list of mandatory standards administered by the Ministry of Health. This list is similar to the list attached Decree 179, but the number of the specification is slightly different.

⁸ Source “Country Commercial Guide-Egypt FY 2002” produced by U.S. and Foreign Commercial Service, U.S. Dept. of Commerce. See Annex C for WTO notification of decree No. 411.

⁹ Decree No. 180 of 1996 replaced Decree No. 42 of March 1994, which identified a shorter list of international standards that could be used when there is no Egyptian standard.

or international standard, authorities will refer to the Analysis Certificate accompanying the product.¹⁰

Labeling: MOI Decree No.181 of September 18, 1996, in Article 1 provides instructions for including the specification for the product on the product labels concerning for what to do if labeling is not practical. Article 2 provides that producers shall be fully responsible legally for the correctness and validity of the data and the conformity of the product to the data. The decree applies only to producers of products and commodities that are put to sale directly to the consumers in the local market.

Options for Conformity Assessment Process: Egyptian companies have the right to carry out the conformity assessment process themselves or to use a third party in certain circumstances. MOI Decree No. 222 of October 16, 1997 provides that a producer must state that its product complies with a mandatory standard if one is applicable. However, the producer or a third party can carry out the conformity assessment process. Producers are still responsible for the results and must get authorization to carry out their own assessments and must possess the appropriate laboratories and staff. Producers holding ISO conformity assessment certificates Nos. 9001 or 9002 or obtaining the Egyptian Quality Mark have the right to carry out the conformity process by themselves. Producers have to maintain registers concerning the conformity assessment procedures, tests and results relating to their products. The Ministry of Industry Industrial Control Authority has the jurisdiction and power to inspect periodically the registers.

Regime for Imported and Exported Goods

Quality Control Measures-Legal Framework Applicable to Imports/Exports and the Inspection System

Legal authority: The authority for imposing quality control measures on imports and exports derives from Law No. 118 of 1975 on Import and Export. Article 9 of this law gives the Minister of Trade (now Minister of Economy and Foreign Trade) authority to specify the products that will be subject to import or export controls and the specific controls. Articles 10 and 11 gives the Minister authority to set the conditions and specifications that products subject to control must conform. Article 11 also provides that products subject to control cannot be imported unless examined to order to ascertain their conformity to the foregoing conditions and specification. Article 12 authorizes the Minister of Trade on the request of a competent to exempt certain products from the requirements of Articles 10 and 11. Article 13 requires the Minister to define proceedings for inspection, examination and appeal.

Import-Export Regulations on Inspection: Ministry of Economy and Foreign Trade (MOEFT) Decree No. 275 of 1991 (published May 30, 1991 in the Wakayeh) contains the Executive Regulations implementing Law No. 118.¹¹ Part V of these regulations concerns quality controls on exports and imports. Article 73, as amended, provides that GOEIC should be concerned with the inspection of imports specified in Annex 8 and

¹⁰ Source “Country Commercial Guide” cited above.

¹¹ Collectively, Law No.118 and Decree No. 275 and other relevant decrees are known as the Import & Export Regulations. (The version of Annex we examined was updated through MOEFT Decree No. 712 of 2001.)

exports specified in Annex 9. Article 74Bis provides that GOIEC should examine in accordance with standard conditions and specifications issued or approved by EOS. Annex 8 (imports subject to control) contains 186 categories of products and Annex 9 (exports subject to control) contains 52 categories.

Products exempt from testing: The regulations do exempt some products destined for industrial use from conformity testing. Articles 75 Bis and 79Bis of Decree No. 275 provide that the products of exporters or importers do not have to be inspected if the importer or exporter satisfies certain conditions: (a) the exporter must have a quality control system approved by GOIEC and producer of an import must have a quality control system that carries out tests that GOIEC would have carried out, (b) the exporter or importer must be exporting or importing the same product to or from the same party for a period of one year with a minimum of ten consignments and (c) none of the shipments have been refused. If these conditions are satisfied, then shipments of that importer or exporter will only be subject to an external examination rather than be subject to testing. Exporters or importers who qualify are put on a so-called “white lists”. If the external examination results in a non-confirming transaction, the exporter or importer will be warned and then removed from the list if there is a second non-confirming shipment. The exporter would then have to restart the qualification process over again. Article 79Bis only applies to imported non-food-stuff industrial consignments. Article 79Bis was added by MOEFT Decree No. 501 of 1999 and probably represents a modification of Minister of Trade Decree 99 of 1994, which purportedly exempts from quality control inspection imported products destined for factories.

Guidelines on timing: Articles 81 to 88 contain guidelines on the inspection of exports and imports subject to quality controls. Article 82 requires export shipments to either be approved or rejected within 24 hours and, if the shipment is rejected, the reasons should be stated. The exporter can require up to 10% of the shipment to be inspected before a shipment is rejected. In contrast, for imports, Article 83 does not impose a time limit on inspections of imports and requires that only 4% of the shipment needs to be inspected before rejection.

Appeals: Chapter 3 (Articles 91-93Bis) of Decree 275 contains procedures for exporters or importers to submit written complaints regarding inspection results and provides for an appeals committee under the GOEIC Director or his deputy. Representatives of inspection agencies and General Federation of Chambers of Commerce or the General Federation of the Egyptian Industries to serve on the committee. The Committee has 24 hours to make a decision on exports and 48 hours, on imports. Article 93 Bis, which was added by Decree No. 501 of 1999 allows the Minister of Economy and Foreign Trade to allow “sorting out afresh” the refusal of imported consignments. The importer after this review may re-export or destroy non-conforming products and submit a new request for examination of the remaining quantities.

Implications: Based on our review of the foregoing decrees (bearing in mind the problems of translation), it would appear that GOIEC is only required to inspect the imported products in Annex 8. However, the practice, as explained by the majority of people with whom we interviewed, is that all imported products are in fact potentially subject to inspection and testing, not just products subject to mandatory standards. Since

manufacturers (or in the case of imports, importers) are required by MOI decrees to specify the standards to which their products conform to, GOIEC always has a standard against which a product can be tested. Further research by local counsel should be undertaken to clarify exactly what the existing laws and regulations require and how they are being interpreted.

Recent Improvements to Inspection and Testing Process: Until April of 2000 as many as four ministries could sample an imported shipment to determine if it complied with Egyptian standards. Presidential Decree No. 106 of 2000¹², entitled “Facilitating Examination and Control Procedures on Exported and Imported Commodities”, simplified this process. The decree puts GOEIC in charge of the process for inspecting, testing and controlling the examination of exports and imports that are subject to quality controls.

The decree provides in its various articles that:

Article 1. Inspections of imports and exports that are subject to control shall be conducted solely under the supervision of GOEIC. Agencies who conduct inspections should do so simultaneously (i.e., the process of examination and control should place in one stage, with all interested agencies participating.)

Article 2. Representatives of inspection and control agencies should be annexed to the concerned branch office of GOEIC where a joint headquarters shall be equipped with the necessary laboratories. These representatives shall be subject to the administrative supervision of GOEIC. The representatives shall be authorized to carry out the examination and approval functions without referral to higher authority.

Article 3. The head of the GOEIC branch should constitute joint committees of agency representatives (based on the commodities subject to control) for the purpose of conducting the required examinations. The head should communicate the results of the examinations to Customs.

Article 4. Representatives of Ministries responsible for examination and control of exports and imports shall be added to GOEIC Board of Directors if they are not already represented on the Board.

Article 5. A Technical Secretariat shall be established in GOIEC for purposes of coordination and follow-up among the various inspection agencies. The Secretariat shall work in collaboration with the agency representatives assigned to the GOEIC branch offices (per article 2).

Article 6. The Minister of Economy and Foreign Trade, in collaboration with the concerned Cabinet Ministers, should issue decrees to implement the provisions of the Decree No. 106.

¹² Wakayeh, Issue No. 10 of March 9, 2000

MOEFT has already taken steps to implement Presidential Decree no. 106. MOEFT Decree No. 346 of 2000¹³ is the primary implementing decree. This decree sets up the inter-ministerial governing board for GOEIC provided for in Article 4 of Decree No. 106 and the inter-ministerial committees at each port of entry to coordinate the inspection process as envisaged by Article 3 of Decree No. 106. Decree No. 346 in Article 6 also as sets forth procedures and details for inspecting products and sampling of products for testing.¹⁴ Once an article passes an external examination, it should either be released unless it needs a laboratory examination. Paragraph 2 of Article 6 provides that final result are to be issued within at most seven days for all products other than canned food, bottled water and fertilizer, where the examination can take up to fifteen days. Decree No. 346 also includes an appeals process in Article 10.

The improved inspection system established by Decree 346 originally only applied to the Alexandria and Dakhila ports. However, a series of subsequent decrees have extended the system to a number of other ports of entry.¹⁵

¹³ Wakayeeh, issue no. 130 of June 12, 2000

¹⁴ Article 6 was amended by MOEFT Decree No. 524 of August 29, 2000 (published in the Wakayeeh, September 9, 2000). Attached to Decree No. 524 is a detailed description of the external examination system and guidelines on how many samples should be taken.

¹⁵ See Decree No. 405 of 2000 (Wakayeeh of June 7, 2000), Decrees No. 437 of 2000 and No. 57 of 2001.

IV. COMPLIANCE OF LEGAL REGIME WITH TBT/SPS REQUIREMENTS

The procedural elements of the Egyptian standards system, as provided for in the various decrees and regulations cited above, appear to satisfy many of the basic TBT and SPS requirements. This is true both in terms of the decree governing the standards and technical regulations formulations process and those governing the conformity assessment process. However, there are significant gaps in some areas and some elements of over regulation that result in the system being fundamentally inconsistent with the TBT/SPS agreements. Certain of the TBT and SPS Agreements' requirements can only be adequately met if the appropriate set of laws and regulations are adopted. This section analyses the extent to which Egypt's laws and regulations appear to meet those requirements.

What is expected from the legislative/regulatory framework?

In assessing the compliance of the Egyptian standards regime, we are in effect looking for the existence of legal and/or administrative underpinnings (or reasonable measures as appropriate) to ensure ongoing compliance with provisions of the TBT/SPS agreements concerning the following:

1. Non-discrimination

Requirement: TBT requires:

non-discrimination with respect to the treatment of products –imported products should be treated no less favorably than like domestic products and a product originating in one Member should be treated no less favorably than a like product originating in any other country. (As regards technical measures, see TBT Articles 2.1, 5.1, 5.2, and, as regards standards, see Annex 3 (D))(Annex 3 is the Code of Good Practices.)¹⁶

SPS requires that measures:

- a. do not arbitrarily or unjustifiably discriminate between different members or between domestic and foreign suppliers. (See SPS Article 2.3, and Annex C.1 (a) and (d).)
- b. take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined. (SPS Article 6 and Annexes A.6 and A.7)

Analysis: The Egyptian standards regulatory regime can be said to envisage that imported and domestic products subject to technical regulations (i.e., mandatory standards) will be treated the same in that EOS is responsible for setting the specifications that apply to both. MOI Decree No. 179/1996 identifies the mandatory Egyptian standards that products must satisfy. Annex 8 of MOEFT Decree No. 275/1991

¹⁶ Only the provisions applicable to central government bodies are cited; there are also provisions that apply to local governmental and non-governmental bodies, but such bodies do not play a role in the Egyptian standards regime.

specifies the articles subject to mandatory controls. Article 74Bis of MOEFT Decree No. 275 requires GOEIC to look to EOS for specifications it will test against. If imports and domestic products are being treated the same, one would think that the lists would be the same. However, product categories in Annex 8 follow the categories in the tariff schedule while those in Decree No. 179 are based on the products covered by the listed standard. Other studies have also indicated that the lists do not completely match.¹⁷ This difference does not necessarily mean that imports are being treated less favorably than like domestic products, but it does indicate that the legal regime does not ensure equality of treatment. Further, because Presidential Decree No. 106 and its implementing decrees spell out detailed procedures for conformity testing of imports, but Ministry of Industry Decree No. 179 and related decrees do not to our knowledge, this difference also raises the question whether imports are potentially less favorably treated because imports are more likely to be tested than domestic products.

2. Avoidance of Unnecessary Obstacles to Trade

Requirement: TBT requires that:

technical regulations and standards should not be unnecessary obstacles to international trade and that in respect of technical regulations consideration should be given to less trade-restrictive alternatives to fulfilling legitimate objectives (Articles 2.2, 5.1, 5.2, Annex 3 (E)).

SPS measures:

- a. are to be applied only to the extent necessary to protect human, animal or plant health (SPS Article 2.2.);
- b. must be based on scientific evidence (SPS Articles 2.2, 3.3, and 5.2);
- c. must be based on risk assessments and Members must develop scientific evidence and conduct risk assessments to ensure that measures are based on science and applied only to the extent necessary to protect health. (SPS Articles 5.1, 5.2 and 5.3).

Analysis: Other studies have documented that many Egyptian technical regulations and “standards” still contain qualitative elements unrelated to health, safety or the environment.¹⁸ To the extent that the system may subject imports to technical regulations and standards that are not justified on SPS grounds or that fulfill objectives that are not recognized as legitimate by the TBT agreement, such technical regulations and standards can be considered unnecessary obstacles to trade. It is important to note that assessing the compliance of individual Egyptian standards or technical regulations with the TBT/SPS Agreements is outside the scope of this study. Such an assessment must be undertaken on a standard-by-standard basis and should be one of the objectives of the EOS review process. As Egypt has not notified any SPS measures to the WTO, we do not have a good record of the extent to which they are based on risk assessments.

¹⁷ See “Research Study of the Quality Control System in Egypt”, vol. 1, July 1996, (cited in footnote 7 above), page 20.

¹⁸ See DEPCA project studies “–Review of Selected EOS Food and Manufactured –Durable Goods with Respect to International Norms” cited in footnote 4 and “Research Study of the Quality Control System in Egypt” cited in footnote 7.

3. Measures to facilitate harmonization and acceptance of international standards.

Requirement: TBT requires for technical regulations:

- a. the ongoing review of technical regulations to ensure they are appropriate to achieve the desired legitimate objective (Article 2.3);
- b. the consideration of appropriate international standards, guides and recommendations as a basis for technical regulations, standards and conformity assessment procedures (Article 2.4, 5.4) (this requirement also applies to standards by reason of Annex 3(F) (Code of Good Conduct);
- c. the consideration of equivalent technical regulations of other Members (Article 2.7);
- d. the acceptance of the results of conformity assessment procedures conducted by bodies in an exporting Member country (Article 6).

SPS requires:

- a. to the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures (SPS Articles 3.1, 3.3 and 3.4.);
- b. Equivalence: members shall recognize different measures that achieve the same level of protection (SPS Article 4).

Analysis: The EOS program of reviewing all Egyptian standards with the objectives of reducing quality criteria and basing them on international standards would appear to satisfy the requirements in (a), (b) and (c). As noted elsewhere, it would be desirable if the review process were codified in law or regulation to ensure its continuity and if the process were more transparent. Provisions that satisfy requirement (d) regarding acceptance of conformity result performed in exporting countries do exist. Article 74 of the Import and Export Regulations does appear to permit GOIEC to accept inspections by bodies in exporting members. Further study is needed to determine the extent to which importers are able to take advantage of this provision in practice.

4. Transparency provisions

Requirement: TBT requires:

- a. Submission of Statement on Implementation (Article 15.2 and TBT Committee Decision (G/TBT/1))
- b. Establishment and operation of a single Contact Point for Information ("inquiry point") (Article 10)
- c. Identification of authority responsible for notifications, publications and other internal procedures to ensure transparency obligations are met on an ongoing basis (Articles 2, 5, 10, 15.2, Annex 3 and G/TBT/1). These obligations include:
 - i. identification of publication where notices of proposed technical regulations and conformity assessment procedures will appear (Articles 2.9.1, 5.6.1, 10.1.5);

- ii. identification of authority responsible for making notifications to the WTO (Articles 2.9.2, 2.10.1, 5.6.2, 5.7.1, 10.7, 10.10);
- iii. guidance/law to ensure regulatory authorities afford non-discriminatory consideration of comments in the preparation of a final regulation (Articles 2.9.4, 2.10.3, 5.6.4, 5.7.3);
- iv. guidance/law to ensure regulatory authorities allow a reasonable period of time between the final publication of a technical regulation and conformity assessment procedure and its entry into force so that suppliers can adapt (Articles 2.11, 2.12, 5.8, 5.9);
- v. publication and notification of work program for standards and non-governmental conformity assessment procedures, including publication of notices of draft standards and an opportunity for public comment (Article 4, Annex 3 (J, K, L, N, O)).

Analysis: Egypt's implementation notification is found in WTO document G/TBT/2/Add.34 of July 22, 1997 (requirement (req.) a)(copy attached Annex C). The notice identifies EOS as the enquiry point (req. b) and identifies EOS as the authority responsible for making notifications (req. c). The notification envisages 60 days for comments on technical regulations. As noted earlier we have not identified any law or regulation that codifies the EOS transparency procedures and ensures that they are followed (req. c. iii & iv). While the notification states that the standards work program is available at the EOS office and can be submitted on request, this would not seem to satisfy the TBT requirement that the work program be published (req. c.v). Most importantly, no notifications have been submitted regarding TBT measures since 1998. About five notifications were submitted during the period 1997/1998. Copies of some of these notifications are included in Annex C; in some cases WTO members were not given 60 days to comment.

SPS requires:

- a. establishment and operation of a single Contact Point for Information ("enquiry point") (SPS Article 7 and Annex B.3), and
- b. notification and access to documentation (SPS Article 7, Annex B and G/SPS/7).

In particular,

- (i) identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis (SPS Annex B.5(b) and Annex B.10);
- (ii) establishment of guidance or law requiring publication of proposed measures at an early stage for comment (Annex B.5 (a));
- (iii) provision in law or administrative procedure to provide copies of proposed measures to WTO Members (Annex B.5(c)); and

(iv) provision in law or administrative procedure for a reasonable period of time for comment from Members and the public, and establishment of a process to take comments into account without discrimination (Annex B.5 (d)).

Analysis: The Ministry of Agriculture, Department of Economic Affairs has been named the enquiry point and notification point.¹⁹ As with TBT, it is not clear to what extent the transparency provisions noted in (b) (i), (ii) (iii) and (iv) above have been codified. Based on a search of documents on the WTO website Egypt has not made any notifications under the provisions of the SPS Agreement. The only notifications of SPS measures concerning Egypt were notifications from the EU, Latvia, Romania and Norway regarding measures they had taken that affected Egyptian exports. At some point the Ministry of Agriculture was notified as the enquiry point and notification agency.

Based on the above analysis Egypt needs to undertake a number of measures to ensure that its laws and regulations comply with TBT/SPS requirements. The appropriate agencies have been assigned the responsibility of being enquiry points and notifying agencies, but the agencies in the government responsible for overseeing and coordinating Egypt's participation in the WTO should be exercising oversight to ensure that notifications are being made and that all agencies are cooperating.

¹⁹ See WTO document: G/SPS/ENQ/10 of July 4, 2001 which states that the Ministry of Agriculture Department of Economic Affairs, 7 Nady El-Said Street, Dokki is the national SPS enquiry point for Egypt.

V. INTERVIEW RESULTS ON THE OPERATION OF THE CURRENT SYSTEM

This study involved an extensive series of interviews with both governmental officials and members of the private sector concerning the operation of the Egyptian standards and quality assurance system. (A full list of those interviewed is contained in attachment E). These interviews resulted in a wide range of descriptions and opinions on both the structure and effects of this system. However, while it is difficult to sort out the absolutely correct characterization of the Egyptian standards regime, certain conclusions can be determined from the source of information. For example, the Egyptian Organization for Standardization and Quality Control (EOS) is the unit of the GoE that is responsible for developing standards and thus should be the primary source of information on the standards making process. The General Organization for Export and Import Control (GOEIC) is the central authority for standards testing for foreign trade and should be the main source for testing information for these products. The private sector is on the receiving end of the entire system and as a result has a unique perspective on its operation. As a consequence of these different roles, it is possible to draw conclusions in the face of conflicting information. Such conclusions form a central part of this study.

This section is based solely on interviews and simply reports the information given. Commentary on the information is contained in other parts of this study. Interview reports may differ from legal analysis, but the “Recommendations” takes this into account.

A. Standards Development

Government interviews:

The EOS is responsible for writing Egyptian standards. As described above, a procedure is in place to develop standards in an orderly and open manner. Briefly, the process is as follows:

- Various Ministries propose new or revised standards to the EOS,
- The proposals become part of an annual plan for consideration by interested agencies,
- The proposals are referred to one of a hundred technical committees composed of experts from the GoE, academia and the private sector for examination and recommendation,
- Two months are allowed for private sector comment on the proposals (which is consistent with TBT/SPS requirements and international standards bodies such as CODEX),
- Proposals go from the expert committees to the EOS Board for final consideration (including private sector comments) over a period of one month,
- After final approval, notice is placed in the official journal and local newspapers, and made available in the EOS library.

There are over 4000 national standards in force of which only 280 are mandatory (70% of

these are in the agricultural sector). The rest are nominally voluntary. However, in practice, all products for Egyptian consumption, either domestically produced or imported, must meet either one of these Egyptian standards or an international standard. That is, whether mandatory or voluntary, all products are subject to testing to determine if they meet the standard to which they purport to comply. This testing of imports is a GOEIC function, not one of the EOS. If an imported fails a test, it is denied entry. The testing of domestic products is a function of the Ministry of Industry 's Industrial Control Authority. It selectively tests products on the shelf in stores.

The EOS seeks international accreditation for its laboratories. It bases its work on international standards such as ISO and is seeking, through a process of review of existing standards, to remove qualitative factors from Egyptian standards and to focus on health, safety and environmental concerns. This review process is scheduled for completion by 2003. EOS does not publish its work program for standards review.

The EOS maintains that there is full transparency in its standards-making system.

Private Sector Interviews:

According to interviews with private sector sources, the current system lacks full transparency and predictability. Even among those elements of the private sector that are heavily involved in the standards making system, concern was expressed that the GoE does not provide adequate information to allow full participation. This includes notice of meetings, publishing and/or circulating draft standards, and encouraging the participation of individual firms as opposed to business associations. However, despite these transparency shortcomings, the system is much improved since 1997.

B. Standards Testing

Comment

The testing system to determine conformity with technical regulations and standards is the most potentially trade distorting element of the import procedures regarding technical regulations and standards. Importers must know what tests will be applied when, and what data requirements are necessary in order to comply with the testing requirement. Mandatory testing with the consequence of rejection of shipment should only be used in conjunction with technical regulations. Standards should not be subject to such testing. If standards are subject to mandatory testing that may result in rejection of entry into a country, they become technical regulations.

End Comment

Government Interviews:

Egypt has 280 formal technical regulations, which focus mainly on agricultural products, but include some industrial products. Products covered by these regulations are subject

to testing prior to importation. If a product fails the testing, it must be brought into conformity or it cannot be entered into Egyptian commerce.

The responsibility for the testing of imports rest with several Ministries- the Ministry of Health and Population for public health considerations, the Ministry of Agriculture for animal and plant health considerations, the Atomic Energy Organization, and the Ministry of Industry and Mineral Wealth and the Ministry of Economy and Foreign Trade. As described earlier in this report, Presidential Decree 106/2000 assigned GOEIC the lead role in the testing and sampling, with specific responsibility for coordinating the participation of other ministries in the process. This has resulted in significant changes in the importation process. Importers now deal with only GOEIC as the contact point for testing, although testing is still done by the individual Ministries. GOEIC collects samples pursuant to guidelines in Article 6 of MOEFT Decree 326 of 2000, as amended by MOEFT Decree 524 of 2000. The new system modifies the earlier practice of each Ministry collecting its own samples. GOEIC then distributes the samples to the different Ministry laboratories. The extent to which the new system will reduce some of the burdens on importers remains to be seen. For example, some in testing Ministries have questioned whether the number of samples taken under the new rules is adequate for complete testing purposes.

A determination that an imported food item has not passed the various tests can be appealed to the “Food Safety Committee” and the “Imported Foods Technical Review Committee”; both chaired by the MoH but composed of an inter-ministerial review committee. The results of this review are reported back to GOEIC. The committee considers CODEX and ISO standards, but also “Egyptian consumption requirements” in its deliberations.

Some Ministries stated that “shelf life” issues are “untouchable” because they reflect the unique requirements of the Egyptian people.

GoE efforts are underway to consolidate testing facilities, in particular a U.S. funded “one stop” testing facility in the Port of Alexandria. The GoE generally has high expectations for this experiment and hopes to expand it, if successful, to other points of importation. Some of the Ministries currently conducting their own testing for their mandated interests are skeptical of the “one stop” concept.

Products not subject to the 280 mandatory technical regulations can be subject to Egyptian standards, ISO, EN (European), Japanese, United States or CODEX standards. Importers are allowed to choose the standard to which their product conforms. The product can be tested to the chosen standard and if it does not pass the testing, an opportunity is given to bring the product into conformity or to choose a different international standard. Failure to meet an international standard results in rejection of the shipment. The decision to test or not is the responsibility of GOEIC, not the importer. This process is conducted in the guidance of GOEIC, and the decisions resulting from the process are not subject to a formal appeals process.

Private Sector Comments

Leaving aside the testing of the 280 required items for health, safety and environmental considerations, the application of testing remains a major barrier to efficient trading. Even the 280 items include quality considerations that are arbitrary at best. Beef fat limitations remain a central concern and bring into question national treatment requirements of the WTO, i.e., is this requirement imposed on domestic production in the same manner as imported products.

The testing of items other than the 280 can be not only restrictive but also destructive. Samples taken without prior notice can ruin a shipment or reduce the quantity of the ordered shipment. Uncertainty and manner of application of the testing results in barriers to normal trade patterns. In addition, there are questions raised concerning the expertise and training of inspectors, particularly on products other than the 280 items. Inadequate awareness of testing procedures, outdated specifications and inadequate testing equipment were also cited. In every interview, the lack of modern computer access was used as an example of where quick improvements could be made. The treatment of specific products reportedly varied from one port to the other and affected which ports importers used for specific products.

The inadequacies in the testing procedures and equipment, the lack of transparency in the system, the inconsistency of treatment, and the extensive percentage of imports subject to or potentially subject to testing all create creditability problems and the appearance of an arbitrary system that is subject to manipulation. Some seem to feel that, if an importer has adequate relationships with the testing authorities, the process is manageable, but that a new to market importer or less well-connected importer is more likely to encounter difficulty. The foregoing problems make achieving a system that is consistent with the objectives of the TBT/SPS Agreements even more difficult given that the systems tends to work in such a way that voluntary standards are in reality technical regulations on all imported products.

The “White List” is considered a major improvement in the system. Formally known as the “Product Register” it is comprised of products or companies that have made 10 shipments or more in a one-year period without border problems, but with only 200 product/companies on this list it is rather limited in practical effect. A “Black List” was also mentioned in the private sector interviews but not in interviews with the GoE. Allegedly, inclusion on this list results in extensive testing.

Another improvement mentioned is the use of EU directives for the basis of GoE Decrees on certain products. This practice facilitates not only importation, but also export potential to the EU. There is a consensus among those interviewed that this practice should continue.

VI.
NON-U.S. AID DONORS ACTIVITIES REGARDING TBT AND SPS

Interviews with potential donors did not reveal any current assistance in this area.

The EU did cite two areas where assistance might be possible in the future:

- 1) The Quality Support Program. This program focuses on the private sector. It includes standards development and accreditation but is in an early stage of development.
- 2) A government-oriented program that deals with political reform, benchmarks, conditionality and other issues as DSP could include standards and certification if the EU thought it to be necessary.

Annex C discusses some World Bank work in the TBT /SPS areas.

VII. ASSISTANCE THAT WOULD AID COMPLIANCE

There are several areas where further study would be useful based on the interviews on which this study is based. These areas include:

- 1) Elimination of testing for reasons other than health, safety and the environment. The testing of imports for compliance with product standards should be eliminated on all but the 280 “mandatory” standards (technical regulations). The testing, or potential testing, for this purpose of all other goods imported into Egypt is a non-tariff barrier. A study should be undertaken as quickly as possible to determine the effects of such elimination and the best manner to achieve this benchmark.
- 2) Transparency: This is a major issue with the private sector. While the GoE is convinced that it is not an issue and that all necessary steps have been taken to provide transparency to the private sector. As noted above a number of the TBT/SPS requirements are not being met. Clearly, this issue requires further examination and compliance with these requirements should be given priority attention.
- 3) Interagency co-operation: Most interviews revealed this issue as a problem at both the policy and implementation levels, but no one had a solution. More research is needed to determine if institutional changes could ease this situation.
- 4) One stop testing: This concept will be put to test with the completion of the USG funded laboratory in Alexandria. Careful and meticulous observation will be required with a view to determining effectiveness and what modifications are necessary to make it work. Interagency co-operation will be the deciding factor. This is a key issue with private sector importers.
- 5) Training: A study is necessary to determine the extent and nature of training required to do necessary testing. Equipment for testing and adequate computer linkages should be determined. Elimination of testing for nonessential reasons would considerably limit this requirement.

VIII. SUMMARY AND CONCLUSIONS

If Egypt were applying today for membership in the WTO, there are many changes that should be made in the Egyptian standards regime. In reality, all products imported into Egypt are subject to technical regulations (i.e., mandatory “standards”) and subject to a testing system that is arbitrary, non-transparent and subject to manipulation. See appendix D for a discussion of steps Jordan had to take in the TBT/SPS area before acceding to the WTO.

The first basic problem is that the GoE describes as “voluntary” standards that are in reality technical regulations. Because the GOE requires that a standard be specified for all imports and that all imports may be subject to testing against the specified standard and denied entry for non-compliance, this means that these standards are in TBT/SPS terms technical regulations which do not satisfy the provisions of the TBT/SPS agreements.

The second basic problem is that the testing procedures are arbitrary and unpredictable and therefore are an unnecessary barrier to trade. This is not to suggest that testing imports and domestic products for compliance with health, safety and environmental regulations is inappropriate. In other words, testing products for compliance with the 280 formal technical regulations (i.e., mandatory standards) may be appropriate, assuming the regulations and testing procedures satisfy the requirements of the TBT and SPS Agreements.

The third basic problem is that many of the technical regulations contain qualitative measures that go beyond the TBT/SPS requirement that regulations not be more restrictive than necessary. EOS efforts to review and eliminate the qualitative elements in Egyptian regulations are major step in the right direction, but they need to be supported and the procedures codified. Even if the Egyptian standards were not technical regulations, they would still need to be reformed to comply with the TBT Code of Good Practice.

The last problem is that Egypt has failed to keep up with most of the transparency requirements of the TBT and SPS Agreements; these requirement are not difficult to meet and the WTO and other organizations have make available much information that can assist countries to understand and comply. These requirements serve a valuable function in helping to ensure that the technical regulations and standards are developed and applied in a way that is fair and least-trade distorting.

IX. RECOMMENDATIONS FOR BENCHMARKS

1. Eliminate import testing of all products not covered by the 280 mandatory standards.
2. Satisfy the transparency requirements of the TBT/SPS agreements immediately.
3. The transparency requirements are clearly spelled out in paragraph (3) of Part IV. The formulation of the requirements in Part IV is based on the WTO document “Checklist of Illustrative SPS and TBT Issues for Consideration in Accessions” (WTO document WT/ACC/8 of 15 November 1999). The checklist is a useful document for monitoring compliance with this goal. Take additional steps in the near term to improve transparency, such as developing a website and studying how to provide meaningful private sector participation. Complete the EOS review to remove the qualitative elements from Egyptian regulations and standards (i.e. those that do not relate to health, safety, or environmental considerations). A study should be undertaken to establish a reasonable schedule for accomplishing this benchmark.
4. Continue improvement of the inspection and testing system, both in terms of equipment and facilities and the manner in which it is applied.

ANNEX A

AGREEMENT ON TECHNICAL BARRIERS TO TRADE (STANDARDS CODE)

OUTLINE

Preamble

Article 1: General Provisions

TECHNICAL REGULATIONS AND STANDARDS

Article 2: Preparation, adoption and application of technical regulations and standards by central government bodies

Article 3: Preparation, adoption and application of technical regulations and standards by local government bodies

Article 4: Preparation, adoption and application of technical regulations and standards by non-governmental bodies

CONFORMITY WITH TECHNICAL REGULATIONS AND STANDARDS

Article 5: Determination of conformity with technical regulations or standards by central government bodies

Article 6: Determination by local government bodies and non-governmental bodies of conformity with technical regulations or standards

CERTIFICATION SYSTEMS

Article 7: Certification systems operated by central government bodies

Article 8: Certification systems operated by local government and non-governmental bodies

Article 9: International and regional certification systems

INFORMATION AND ASSISTANCE

Article 10: Information about technical regulations, standards and certification systems

Article 11: Technical assistance to other Parties

Article 12: Special and differential treatment of developing countries

INSTITUTIONS, CONSULTATION AND DISPUTE SETTLEMENT

Article 13: The Committee on Technical Barriers to Trade

Article 14: Consultation and dispute settlement

FINAL PROVISIONS

Article 15: Final provisions

ANNEX I: TERMS AND THEIR DEFINITIONS FOR THE SPECIFIC PURPOSES OF THIS AGREEMENT

1. Technical regulation
2. Standard
3. Conformity assessment procedures
4. International body or system
5. Regional body or system
6. Central government body
7. Local government body
8. Non-governmental body

ANNEX 2: TECHNICAL EXPERT GROUPS

ANNEX 3: Code of Good Practice for the Preparation, Adoption and Application of Standards

AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

OUTLINE

Article 1:	GENERAL PROVISIONS
Article 2:	BASIC RIGHTS AND OBLIGATIONS
Article 3:	HARMONIZATION
Article 4:	EQUIVALENCE
Article 5:	ASSESSMENT OF RISK AND DETERMINATION OF APPROPRIATE LEVEL OF SANITARY OR PHYTOSANITARY PROTECTION
Article 6:	ADAPTATION TO REGIONAL CONDITIONS, INCLUDING PEST- OR DISEASE FREE AREAS AND AREAS OF LOW PEST OR DISEASE PREVALENCE
Article 7”	TRANSPARENCY
Article 8:	CONTROL, INSPECTION AND APPROVAL PROCEDURES
Article 9:	TECHNICAL ASSISTANCE
Article 10:	SPECIAL AND DIFFERENTIAL TREATMENT
Article 11:	CONSULTATIONS AND DISPUTE SETTLEMENT
Article 12:	ADMINISTRATION
Article 13:	IMPLEMENTATION
Article 14:	FINAL PROVISIONS
Annex A:	DEFINITIONS
Annex B:	TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS
Annex C:	CONTROL, INSPECTION AND APPROVAL PROCEDURES

**ANNEX B
NOTIFICATIONS**

WORLD TRADE ORGANIZATION

G/TBT/2/Add.34

22 July 1997

(97-3081)

Original: English

Committee on Technical Barriers to Trade

**IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT
ON TECHNICAL BARRIERS TO TRADE**

Addendum

Communication from the Arab Republic of Egypt

The following Statement under Article 15, paragraph 2 of the Agreement has been received from the delegation of the Arab Republic of Egypt.

1. The Agreement Establishing the World Trade Organization and its integral part, the Agreement on Technical Barriers to Trade, (hereinafter referred to as the TBT Agreement) after having been accepted by the presidential decree No 72 for the year 1995, and approved by the Egyptian People's Assembly on 16 April 1995, have come into force for the Arab Republic of Egypt on 30 June 1995, the TBT Agreement has been incorporated into the domestic law.

2. The Technical regulations, adopted standards, and procedures for assessment of conformity are published in the Egyptian Official Gazette according to the date of publication, as regards the standards under preparation, the relevant work programme is available at the Egyptian Organization for Standardization and Quality Control (EOC) Information Center and can be submitted upon request.

3. The expected length of time allowed for presentation of comments in writing on technical regulations, standards or procedures for assessment of conformity shall be in general 60 days.

4. The Egyptian Organization for Standardization and Quality Control (EOS) is the enquiry point as a single central government authority that is responsible for the implementation on the national level of the provisions concerning information about technical regulations, standards and conformity assessment procedures, and notification procedures under the Agreement.

5. The address, telephone and fax numbers of the enquiry point are as follows:

2, Latin America Street

Garden City
Cairo
EGYPT

Telephone: + (202) 354 07.71
 + (202) 354 97.20
Telefax: + (202) 355 78.41
Telex: 93296 EOS UN
E-mail: moi@idso.gov.eg

6. The (EOS) is in the process of translating and examining the ISO/IEC Guides with a view to considering the application of such Guides in the field of conformity assessments.

7. The Egyptian Accreditation Council (EGAC) has been established according to the presidential decree No. 312 for the year 1996, this Council is responsible for the assessment and accreditation of the certification bodies according to the international criteria.

Committee on Technical Barriers to Trade

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6.

1.	Member to Agreement notifying: <u>THE ARAB REPUBLIC OF EGYPT</u> If applicable, name of local government involved (Articles 3.2 and 7.2):
2.	Agency responsible: Egyptian Organization for Standardization and Quality Control Agency or authority designed to handle comments regarding the notification shall be indicated if different from above: National enquiry point
3.	Notified under Article 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): Colours permitted
5.	Title, number of pages and language(s) of the notified document: Minister of Decree No. 411/1997 (20 pages, Arabic language)
6.	Description of content: Colours permitted for use in foodstuffs and their permissible ratios as well as foodstuffs in which colours are not permitted.
7.	Objective and rationale, including the nature of urgent problems where applicable: Protection of human health
8.	Relevant documents: Minister of Health Decree No. 411/1997
9.	Proposed date of adoption: 30 October 1997 Proposed date of entry into force: Three months as of the date of publication
10.	Final date for comments: 9 February 1998
11.	Texts available from: National enquiry point [X] or address, e-mail and telefax number of other body:

WORLD TRADE ORGANIZATION

G/TBT/Notif.98.491

15 October 1998

(98-3975)

Committee on Technical Barriers to Trade

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6.

1.	Member to Agreement notifying: <u>EGYPT</u> If applicable, name of local government involved (Articles 3.2 and 7.2):
2.	Agency responsible: Ministry of Industry and Mineral Wealth Agency or authority designated to handle comments regarding the notification shall be indicated if different from above: Enquiry point
3.	Notified under Article 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): Processed cereal-based food for infants and children
5.	Title, number of pages and language(s) of the notified document: Minister of Industry and Mineral Wealth – Decree No. 154/1998 (1 page, in Arabic)
6.	Description of content: Based foods for infants and children
7.	Objective and rationale, including the nature of urgent problems where applicable: Human health protection
8.	Relevant documents: 1. F.S. 3284/1998 2. Codex Standard 74/81 amended 85.89.91
9.	Proposed date of adoption: Proposed date of entry into force: 29 October 1998
10.	Final date for comments: 60 days as of the date of circulation (the date of the notification)
11.	Texts available from: National enquiry point [X] or address, e-mail and telefax number of the other body:

ANNEX C

WORLD BANK WORK ON TBT and SPS

The World Bank is beginning to focus more attention on the question of product standards and the importance of developing countries developing standards regimes that help them compete in a global economy. The below quotes taken from material found on the Bank's website explain the philosophy behind the Bank's approach and shed light on why the changes recommended in this paper for Egypt are important for its development.

9-6-2000

World Bank and OAS Workshop on Trade Facilitation, Regulation and Standards--The Development Challenge in Central America

Panama City, Wednesday, June 28th 2000

Helmut Reihlen, Berlin, Germany on

Standards Institutions, Capacity Building and Best Practice Technical Standardization for industry and society

"In North America, Japan or the European Union only some 10 to 25% of all national standards are referenced in legislative or administrative acts. In the former Soviet Union this figure was 100% .All standards had a compulsory character, thus adding to the inflexibility of the economic system. Reference to standards is basically a welcome method of organizing the interface between legal standards and technical standards. It should however be applied only to matters of safety and health and to some degree to matters of ecology, because only they should be regulated by the state. All other aspects of technology are well taken care of by competitive markets and by a legislation securing fair competition and product liability. They facilitate the best protection and advantage for the consumer. Matters of compatibility, dimensions, performance, quality, fitness for use, terminology, communication should as a matter of principles not be regulated by law." (Page 5)

A standards system, that relies on the voluntary, non-remunerated cooperation of experts from all areas of the society must do everything possible to systematically and continuously inform that society about its proceedings. International cooperation within WTO has established minimum requirements for such an information system. There should be a computer based, electronically accessible National Standards Information System (NSIS), serving the national society as well as global partners as WTO information point. (Page 8)

Standardization can be a great tool to help ourselves and to help our society at large. Like any tool it can be misused. It can be neglected. Let us cooperate and empower each other to make optimal use of it. (Page 14)

The World Bank
Development Economics Research Group
And the World Bank Institute
Project Supported by the United States Agency for International Development
Africa Trade and Investment Policy (ATRIP) Program
Standards and Technical Barriers to Trade:
Institution Building in Sub-Saharan Africa to Support WTO Obligations

Initial Prospectus

Overview

Standards present opportunities for distortion when they impede information flows, restrain competition between firms, block access to networks, and transmit misleading information on product quality or origin. Regulatory requirements and standards developed without consideration of international standards may also restrain trade and limit market entry for new firms. In sum, wider availability of best practice information on appropriate international standards and new networks to support information transfer on standards will accelerate industrial development, innovation, and trade in Sub-Saharan Africa.

Participation of Developing Countries in the Development and Application of International Standards, Guidelines and Recommendations on Food Safety, Animal and Plant Health

**A Joint Statement by
the Directors-General of the Food and Agriculture Organization of the United Nations, the
Office International des Epizooties,
the World Health Organization, the World Trade Organization
and the President of the World Bank**

Food safety and animal and plant health are essential components of sustainable development, particularly as they contribute to public health, the reduction of poverty, food security and the protection of the environment.

The Codex Alimentarius Commission (CAC), the Office International des Epizooties (OIE), and the International Plant Protection Convention (IPPC) are the recognized instruments for the development of international standards, guidelines and recommendations to assist in ensuring food safety for human health protection as well as animal and plant health, and to facilitate trade. The objective of international harmonization of sanitary and phytosanitary measures is to reduce the need for individual countries to develop and justify their own measures, to limit disputes and to take advantage of international trade opportunities.

We are committed to strengthen the capacity of developing countries to establish and implement science-based sanitary and phytosanitary measures, to meet the sanitary and phytosanitary requirements of trade partners and to participate fully in the work of standard setting

organizations in the establishment of international standards, guidelines and recommendations. To this end, the FAO, OIE, WHO, WTO, the World Bank and other multilateral, regional and bilateral agencies undertake technical assistance activities and investment in infrastructure, to assist developing countries in the establishment and implementation of appropriate food safety and animal and plant health measures.

We reaffirm our commitment to work together on the basis of our respective mandates and to further exploit the synergies between our organizations, standard-setting bodies and other agencies. We agree to explore jointly new technical and financial mechanisms for coordination and resource mobilization and to build alliances between standard-setting bodies and the implementing and financing agencies so as to ensure the most effective use of technical and financial resources.

This statement is submitted to inform the Fourth WTO Ministerial Conference in Doha of our commitment to enhance developing countries' capacity to participate effectively in the development and application of international standards and to take full advantage of trade opportunities.

World Bank publication "Global Economic Prospects and the Developing Countries 2002", page 162

"Product standards are becoming increasingly important in international trade to protect consumers. However, standard setting can quickly become a ruse for protecting domestic producers. One solution is to create a Standards Development Facility to introduce science and other professional evidence into standard setting for products, with adequate representation from developing countries. This Facility could also collaborate with governments to provide unbiased assistance to developing countries' standard setting-bodies."

ANNEX D

WTO ACCESSION REQUIREMENTS

In thinking how best to approach the task of assessing Egypt's compliance with the TBT and SPS agreements, we have decided that it would be useful to ask the question what would WTO members expect if Egypt were acceding to the WTO for the first time? The accession working party reports for Jordan and Oman address some of the problems that were found to be of concern in Egypt. Most importantly, the reports indicate how the acceding countries and WTO members were able to find mutually agreeable solutions to those problems. See below how Jordan and Oman handled the problem of shelf-life requirements that were inconsistent with SPS.¹ For reference we have included below the TBT and SPS portions of the Jordan Working Party Report.

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/JOR/33

WT/MIN(99)/9

3 December 1999

(99-5235)

**Working Party on the
Accession of Jordan**

REPORT OF THE WORKING PARTY ON THE ACCESSION OF the hashemite kingdom of JORDAN TO THE WORLD TRADE ORGANIZATION

Excerpts

Technical barriers to trade, sanitary and phytosanitary measures

(a) Standards and Certification

¹ For example, to address the problems of shelf-standards Oman agreed with respect to shelf-stable foods to eliminate mandatory shelf-life standards upon accession and to "establish within one year regulations and procedures in line with international norms for "highly perishable refrigerated" food products and to gradually replace remaining shelf life requirements on these products with a scientific regulatory framework by 31 December 2000." (See paragraph 103 of Oman WP report WT/ACC/OMN/26.) Jordan made a similar commitment in paragraph 145 below.

132. The representative of Jordan said that the Jordan Institution for Standards and Metrology (JISM) was the official body for the preparation and publication of Jordanian Standards. JISM had been established in 1995 by virtue of the Standards and Metrology Law No. 15 for 1994, and was the legal and actual successor of the Jordanian Directorate of Standards (founded in 1972). The main tasks of JISM were to (i) prepare, approve, revise and amend Jordanian mandatory or voluntary standards and monitor their application; (ii) maintain a national system for metrology and supervise its implementation; (iii) grant quality marks and certificates of conformity; (iv) control, test and hallmark the approved fineness of precious metals and jewellery; (v) adopt and approve standards of other countries and of Arab, regional and international organizations, provided that such standards were issued in Arabic or English; and (vi) to cooperate and coordinate with Arab, regional and international institutions in the area of standardization and metrology. JISM was a participating member of the Arab Organization for Industrial Development and Mining (AIDMO), a corresponding member of the International Organization for Standardization (ISO), a corresponding member of the International Organization for Legal Metrology (OIML), and a contact point for the Codex Alimentarius Commission. The Jordan Quality Mark was a voluntary certification system, granted upon request. Products for which the quality mark was sought were tested for compliance with relevant Jordanian Standards. The programme covered foodstuff, feeds, chemicals, soaps, detergents, cosmetics, paints and varnishes, adhesives, pesticides, fertilizers, petroleum products, electrical and electronic appliances, batteries, cables, telecommunication equipment, construction materials and other consumable goods. JISM was updating the current Quality Mark System to comply with the requirements of ISO/IEC Guide 65.

133. Standards were elaborated in technical committees. JISM circulated draft standards by mail to interested parties such as the Chamber of Industry, the Chamber of Commerce, the Consumer Protection Association, research institutions and testing laboratories, and relevant ministries, and allowed a period of 60 days for comment (according to the draft instructions on Preparation of Jordanian Standards, to replace Instructions No. 4:1995). As of early 1998, JISM had begun publication of a quarterly newsletter ("Standards and Metrology News") describing the status of ongoing work on standards. Interested parties could obtain copies of the standards work programme from the JISM Information Centre (the TBT Enquiry Point from the date of accession). Jordanian standards, titles, numbers or bibliographic information were published in Arabic and English in the Jordan Standards Catalogue. Jordan was working constantly on harmonising its standards with international standards.

134. Domestic and imported goods were required to meet national standards and technical regulations applied to protect the health and ensure the safety of consumers. The Ministry of Health was responsible for technical regulations regarding drugs, including vaccines and sera for human use and food, while technical regulations for veterinary medicines, sera, vaccines, pesticides, meat, fertilizer, animal feed, and seedlings fell under the responsibility of the Ministry of Agriculture. Inspections of food and agriculture products at the border were carried out by a committee comprising officials from JISM, the Ministry of Health, the Ministry of Agriculture and the customs department. Samples were tested at Ministry laboratories or other accredited laboratories to ensure they met the set standards before being released from customs. Jordan applied internationally recognized standards when these were available. He emphasized that only consignments containing products subject to Jordanian mandatory standards were tested.

135. Asked whether Jordan had any automatic recognition procedures for imported products manifestly conform to accepted international standards where Jordanian standards did not exist, the representative of Jordan said that samples of imported products, for which there was a Jordanian mandatory standard, were subject to verification through laboratory testing in Jordan. Testing was conducted by laboratories accredited by JISM at the request of JISM. Certificate of conformity was not required. No verification procedures were applied on imported goods if Jordanian standards did not exist. Jordan had no standards for medicines or medical equipment; importers of such goods provided documentation indicating circulation of the imported medical equipment in the country of origin.

Importers of medicines were required to register the imported product at the Ministry of Health (MOH). Registration was based on manufacturer's specification and/or international standards (e.g. USP, BP, EP, etc.). Imported medicine was subject to laboratory analysis by MOH to ensure conformity with the information provided at the time of registration. No certification was required for importation of medicine or medical equipment. However, medicine containing materials of human origin required certification from the health authority that each donor be tested free of HIV (1,2), HBs Ag and Hbc. As for shelf-life requirements for drugs and vaccines, these were determined by the Ministry of Health case-by-case in accordance with the stability study submitted by the manufacturer of the product.

136. The representative of Jordan said that existing legislation and practices would need to be changed to comply with the WTO TBT Agreement in respect of the elaboration and implementation of standards and mandatory requirements, border inspections and the establishment of a TBT enquiry point. The current Standards and Metrology Law addressed only standards, and did not cover international guides and recommendations, although the Jordan Institute for Standards and Metrology used such guides and recommendations as reference in the preparation of its regulations. At present, JISM issued both voluntary and mandatory standards. The mandatory standards would need to be replaced by technical regulations based on the protection of health, safety and environmental aspects. Most current Jordanian standards were based on descriptive characteristics rather than performance. Article 11 of the Draft Law on Standards and Metrology stipulated that the Director General would appoint a technical committee to revise existing standards. Proposed drafts would be submitted to the Board for adoption as standards or technical regulations. Jordanian Standards were reviewed continuously for the need to be updated according to the policy of the Standardization Department. All standards published before 1995 were mandatory. As per November 1999, JISM had published more than 210 voluntary standards (of a total 1,320 existing standards) since the enactment of the Standards and Metrology Law No. 15 of 1994. The current number of mandatory standards was 1,110. The objective of JISM was to replace current mandatory standards with voluntary ones, or with mandatory technical regulations consistent with the provisions of the WTO TBT Agreement, and JISM would need extensive technical assistance from WTO Members and other sources to accomplish this goal as soon as possible. JISM was at present assisted by the German GTZ project in this regard, and had adopted the ZOPP methods for annual planning.

137. The representative of Jordan stated that Jordan's Standardization Department was gradually reviewing the remaining 1,110 mandatory standards to replace them with voluntary standards or with technical regulations, consistent with Article 2 of the TBT Agreement. No less than one quarter of the remaining standards would be converted each year after accession, and Jordan intended to complete the process of conversion by 31 December 2003. The Working Party took note of this commitment.

138. Inspection procedures at the border would need to be streamlined. Currently, each consignment was tested to ascertain compliance with Jordanian mandatory standards regardless of whether the product had already been subjected to any conformity assessment procedure. JISM had prepared a plan for product inspection to ensure that procedures would be simplified and no more restrictive than necessary, and shortening the time period for inspection, sampling and testing. According to this plan, JISM intended to (i) consolidate testing activities; (ii) reduce the time needed for border inspection by 30 per cent by the end of 2001. Customs centres would send samples taken directly to the testing laboratories, and samples taken at the border would be given priority by the testing laboratories; (iii) accept foreign certificates of conformity, if issued by bodies recognized or accredited by JISM; (iv) establish sampling procedures in accordance with international standards; (v) improve coordination between different inspection bodies in Jordan to avoid overlapping; and (vi) improve the capability of the inspection system in the Control Department of JISM by training of staff, acquisition of international references on acceptable inspection procedures, and computerization. The TBT inquiry point would be established as a division within the information centre at JISM. The inquiry point would collect all regulations affecting international trade from other government institutions, and a mechanism would need to be devised to strengthen the communication channels between the inquiry point and these institutions. JISM had

started work on a survey of governmental institutions to strengthen communication between the inquiry point and these institutions. In addition, JISM was preparing a web site for the Enquiry Point, providing access to the relevant government institutions for their contributions. Moreover, Article 21 of the draft Law on Standards and Metrology required all official bodies to respond within five days to requests from JISM for all necessary information concerning technical regulations, conformity assessment procedures and copies of such, thereby allowing JISM to respond to inquiries promptly.

139. The representative of Jordan said that Jordan was reviewing its current legal regime for conformity with the TBT Agreement. An overview of the existing regime and an action plan for implementation of the TBT Agreement were provided in document WT/ACC/JOR/22 (Attachments A and B). Law No.15 on Standards and Metrology would be replaced by a new draft Law on Standards and Metrology, to be adopted by Parliament during its Ordinary Session November 1999-February 2000, to address TBT and SPS requirements (except seed control). Jordan was ready to implement fully the TBT Agreement upon accession provided that technical assistance and support (including financial means) would be provided by WTO Members with regard to modernization of testing laboratories in Jordan, border inspection, sampling procedures as well as training of personnel. The Jordanian Institute of Standards and Metrology would act as TBT enquiry point. He added that Article 18 of the draft Law on Standards and Metrology, to be enacted by the end of 1999, provided for publication of a notice in JISM's newsletter of all proposed technical regulations and conformity assessment procedures prior to adoption to permit reasonable time for comments to be considered before adoption of the final rule, as required in Article 2.9 of the TBT Agreement. He added that when adopting standards, Jordan would adhere to the Code of Good Practice (Annex 3 of the TBT Agreement), incorporated by reference in Article 11.10 of the draft Law on Standards and Metrology, which meant, in practice, that notice of a standard would be published at least 60 days prior to its planned enactment to allow interested parties opportunity to comment in JISM's newsletter. Article 18.b of the same draft Law stipulated that all adopted technical regulations, conformity assessment procedures and standards be published promptly in the official gazette. Technical regulations, conformity assessment procedures and standards came into effect after their publication.

140. The representative of Jordan confirmed that Jordan would comply with all obligations under the WTO Agreement on Technical Barriers to Trade from the date of accession without recourse to any transition period. The Working Party took note of this commitment.

(b) Sanitary and phytosanitary measures

141. The representative of Jordan said that the Ministries of Agriculture and Health maintained sanitary and phytosanitary technical regulations to ensure that locally-produced and imported foods, plants, plant parts and by-products, animals and animal by-products, agricultural chemicals, fertilizer, and veterinary medicine were safe and did not endanger human, animal or plant health and life, or the environment. In Jordan, samples were collected at local markets and tested for pesticide residue, animals were examined before slaughter, and carcasses were examined to determine their suitability for human consumption. All sanitary and phytosanitary regulations were published in the Official Gazette, and traders could consult this information at the Chambers of Commerce in Jordan. Jordan was a member of the Codex Alimentarius Commission, Prior Informed Consent (PIC), the International Office of Epizootics (OIE), the Food and Agriculture Organization (FAO), the World Health Organization (WHO) and the International Atomic Energy Agency (IAEA), and worked together with these organizations in establishing and applying sanitary and phytosanitary measures. Jordan was not a member of the International Plant Protection Convention, but adopted and implemented the standards of this organization. Jordan was a member of the European Plant Protection Organization and the Near East Plant Organization.

142. Import activities were governed by the Agriculture Law No. 20 for 1973 and other relevant

regulations and instructions issued by the Ministry of Agriculture and the Ministry of Health. A health certificate was required for each shipment. Imported goods not satisfying Jordan's sanitary and phytosanitary requirements were re-exported or destroyed. In 1997, 65 consignments (out of 51,000 customs transactions) had been re-exported because they did not meet Jordanian requirements. The most frequent cause of non-compliance related to shelf-life requirements for foodstuffs. Consignments of live animals, frozen and chilled meat, poultry meat, hatching eggs, pesticides, seeds, seedlings and plants, animal fodder and organic fertilizers were subject to inspection or quarantine. Control measures applied in Jordan to control pests included the use of pesticides, soil fumigation with methyl bromide and soil solarization, if possible.

143. Concerning shelf-life requirements for foodstuffs, the representative of Jordan said that these were based on Jordan Standard 288/1994 "Shelf Life for Foodstuff" and Jordan Standard 401/1997 "Shelf Life for Infant and Children's Foodstuff", issued and administered by the Jordan Institution for Standards and Metrology. The standards had been prepared by specialised technical committees, taking into consideration the climatic and storage conditions in Jordan. The shelf-life requirements applied equally to imported and domestic goods.

144. A member observed that Jordan's regulations on shelf-life did not conform with international norms and were inconsistent with the provisions of the SPS and TBT Agreements that require the use of sound science to establish such requirements. The food safety risk that could be prevented with mandatory shelf-life dates had not been specified, nor had Jordan demonstrated what impact non-fulfilment, i.e. the absence of a shelf-life date, would have. This member also maintained that the imposition of mandatory shelf-life terms on an arbitrary, across-the-board basis on numerous products was not an appropriate solution to the concerns expressed, and emphasized that it was in the interest of both the exporter and the importer to assure that there would be sufficient shelf-life remaining on imported products for them to be purchased and consumed within the optimum quality period. This member expressed the view that an arbitrary requirement for half the shelf-life, enforced by the Government, was not a useful way to address this concern. He suggested that mandatory shelf-life dating should be eliminated for "shelf-stable foods", in the context of adopting the Ministerial Decrees that will implement the WTO TBT and SPS Agreements in Jordan, and that regulations and procedures be established in line with international norms for "highly perishable refrigerated" food products to gradually replace these requirements with a scientific regulatory framework, e.g., within one year. In reply, the representative of Jordan said that the new draft Law on Food did not contain any provision on half shelf-life requirements. The Draft Law on Food was expected to be enacted in December 1999. Once enacted, all articles in the Law on Public Health connected with food, including half-shelf life requirements, would become inapplicable, including Article 69 (1.b).

145. The representative of Jordan confirmed that Jordan would initiate immediately the process of examining its shelf-life standards (JS:401:1977 and JS 288:1994) in light of international scientific practices on shelf-stable food products to identify shelf-stable products currently appearing on the lists of these two standards. He further confirmed that Jordan would eliminate shelf-stable products from the coverage of these two standards by 30 June 2000. He added that Jordan would establish within one year regulations and procedures in line with international norms for "highly perishable refrigerated" food products to gradually replace remaining shelf life requirements on these products with a scientific regulatory framework by 31 December 2000. The Working Party took note of these commitments.

146. The representative of Jordan added that Jordan had conducted an assessment of its SPS legislation and determined that new laws would have to be enacted in order to fully conform to the SPS Agreements. Jordan had prepared a new draft Law on Agriculture (to address SPS plant and animal provisions) and a Draft Law on Food (covering SPS food aspects). The draft laws would bring Jordan's foreign trade regime into full conformity with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. Jordan was ready to implement fully the SPS Agreement upon accession

provided that technical assistance and support (including financial means) would be provided by WTO Members with regard to modernization of testing laboratories in Jordan, border inspection, sampling procedures as well as training of personnel. The Ministry of Agriculture would act as SPS enquiry point.

147. A member sought information on Jordan's plans to reform the activities of four separate bodies (the Ministry of Health, Ministry of Agriculture, JISM and the Greater Amman Municipal authorities) involved in the testing and/or sampling of frozen foodstuffs, which appeared to have had negative trade effects. This member also inquired about measures applied to imported meat, notably inspection requirements at the border supplemented by additional inspection within Jordan, which appeared to be more trade-restrictive than necessary. Moreover, Jordan required imported meat or meat from imported animals to be refrigerated separately from other meat and sold separately from domestically-produced meat, which, in the view of this member, was inconsistent with the provisions of Article III of GATT 1994. Jordan also maintained a prohibition on the use of powdered milk as an input in the production of UHT milk and yoghurt. This member requested the abolition of all remaining prohibitions on the use of powdered milk by industrial users of dairy products, as those measures were trade distorting and had no valid WTO justification, and a commitment from Jordan that guidelines or rules be developed in relation to the entry into Jordan of live animals, frozen meat, milk powder, and frozen butter to ensure full conformity with the requirements of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

148. The representative of Jordan replied that the new Laws on Agriculture, Standards and Metrology, and Food Control, all to be enacted before the end of February 2000, defined clearly the relevant mandates for the Ministry of Agriculture, the Ministry of Health, and the Jordan Institute of Standards and Metrology. Jordan was evaluating the process of sampling, inspecting and testing of food to streamline and eliminate any redundancies observed with the assistance of the World Bank and USAID. The reform process would be completed by the end of June 2000, and by then the activities of all Jordanian bodies involved in the testing and/or sampling of frozen foodstuffs would be in conformity with all relevant provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures, including those relating to Control, Inspection and Approval Procedures (Annex C). The refrigeration requirements for meat were applied to protect consumers against deceptive practices in the absence of legislation on consumer protection.

149. The representative of Jordan confirmed that, as from the date of accession, unnecessary inspections of imported meat and meat from imported animals would be eliminated, and national treatment would be accorded fully to such products as part of Jordan's program for the development and adoption of guidelines and/or rules for food inspection and testing procedures. The new Law on Agriculture would include provisions of Annex C of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. All instructions and testing procedures would be in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, in particular its Annex C. To address concerns over the lack of national treatment for and the unnecessary inspection of imported meat and meat from live animals, he confirmed that Jordan would make a particular commitment to abide by the provisions of paragraphs 1(a), 1(e) and 1(g) of Annex C from the date of accession. Jordan would implement the least trade restrictive requirements possible to prevent deceptive practices *vis-à-vis* consumers of meat, taking into account the national treatment requirements of Article III of GATT 1994. All remaining prohibitions on the use of powdered milk by industrial users of dairy products would be abolished as soon as legislatively possible upon accession, and in any event no later than within 12 months from the date of accession. The Working Part took note of these commitments.

150. Asked whether Jordan was considering working towards the concept of equivalence, the representative of Jordan said that Jordan accepted ISO procedures. His Government also intended to issue new regulations for the acceptance of sanitary and phytosanitary measures of other countries. The exporting countries would need to demonstrate that their measures achieved the same level of consumer

health protection as in Jordan. Jordan was prepared to accept inspection certifications from other countries based on agreement. Jordan did not apply stricter sanitary and phytosanitary measures than set out by international standards organizations on any product.

151. The representative of Jordan confirmed that Jordan's sanitary and phytosanitary standards system would be in compliance with WTO provisions under the Agreement on the Application of Sanitary and Phytosanitary Measures as of the date of accession to the WTO, and that Jordan would apply all measures of the Agreement on the Application of Sanitary and Phytosanitary Measures in a least trade distortive manner from the date of accession without recourse to any transition period. The representative of Jordan further confirmed that, without recourse to any transition period and in conformity with the SPS Agreement, no stricter rules than those laid out by international organizations such as OIE will be applied. The Working Party took note of this commitment.