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MINISTRY OF FOREIGN TRADE AND INDUSTRY

Risk Assessment and Science-Based Measures in the WTO Agreement on Sanitary and Phytosanitary Measures

TECHNICAL REPORT

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This publication was produced for review by the United States Agency for International Development. It was prepared by John F. Landos, a consultant for Nathan Associates Inc., assisted by Dr. Sahar Tohamy, senior economist, under the Assistance for Trade Reform, a Joint Project of the Ministry of Foreign Trade and Industry and USAID.

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The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Contents

Executive Summary	1
1. Background	3
2. Introduction	5
The SPS Agreement	6
The Legal Framework in Egypt	8
Key Agencies Involved in SPS Matters in Egypt	9
3. Analysis of SPS Issues in Egypt	11
Level of Protection	11
Notification Authority, Enquiry Point, and Transparency	14
Risk Analysis	20
Standards vs. Technical Measures	24
4. Comparison of Food Control Systems	25
Import and Domestic	25
Export	29
5. SPS Institutional Development Issues in Egypt	33
Organization of Ministry of Agriculture and Land Reclamation	33
Arrangements for Incoming and Outgoing SPS Notification Flow	33
Transparency of SPS Measures Imposed by Egypt	36
Risk Analysis	37
Consistency of Measures	37
IT Infrastructure and Use of E-mail, Websites, and the Internet	39
Needs Assessment for Market Access	40
6. A Structured Approach to Strengthening Transparency and Notification Processes	41
7. Recommendations	45

Contents (continued)

Appendix A. Outline of Training Course on Notification and Enquiry Point Functions	1
Appendix B. Registration and Tracking Documents	1
Appendix C. Program of Workshop on WTO SPS Agreement	1
Appendix D. Scope of Work	1
Background – The Egypt ATR Project	1
Description of Activities under this Short-Term Consultancy	2
Appendix E. Agreement on the Application of Sanitary and Phytosanitary Measures	1
Appendix F. Summary of Australian Imported Food Requirements	1

ILLUSTRATIONS

Figures

Figure 5-1. Flow of Information for Incoming SPS Notifications	34
Figure 5-2. Flow of Information for Outgoing (Non-emergency) SPS Notifications	35
Figure 5-3. Flow of Information for Comment Received on Outgoing SPS Notifications	36
Figure 5-4. An Indicative Risk Analysis Process	38

Table

Table 6-1. Action Plan for Building Sustainable SPS Compliance	42
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Abbreviations and Key Terms

AQIS	Australian Quarantine and Inspection Service
ATR	Assistance for Trade Reform project
CAPQ	Egyptian Central Administration of Plant Quarantine
Codex	Codex Alimentarius Commission
EOS	Egyptian Organization for Standardization
GOEIC	General Organization for Export and Import Control
GOVS	General Organization for Veterinary Services
HACCP	Hazard and Critical Control Point
ICPM	International Commission for Phytosanitary Measures
MoALR	Ministry of Agriculture and Land Reclamation
MoFTI	Ministry of Foreign Trade and Industry
MoHP	Ministry of Health and Population
OIE	Office Internationale des Epizooties
SPS	Sanitary and Phytosanitary s
TBT	Technical Barrier to Trade
WTO	World Trade Organization

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Executive Summary

Egypt is a member of the WTO and is bound by the obligations of membership. For a developing country, the obligations of the WTO Sanitary and Phytosanitary (SPS) Agreement cause difficulties in terms of the infrastructure and expertise available to meet the requirements of the agreement.

Egypt has a complex array of standards that apply to agricultural products and food as well as to sanitary or phytosanitary measures; a range of quality standards is also in place. Inspection and testing arrangements are also complex.

In part due to the number of organizations involved in SPS measures, coordination is a difficult task, and this issue was raised during discussion with senior officials of the main ministries involved.

The enquiry point and notification authority arrangements do not meet the requirements of the WTO SPS Agreement, with no technical measures being notified to the SPS Secretariat in Geneva. Infrastructure relating to enquiry point and the notification authority is in need of strengthening.

Key Egyptian officials have a good understanding of the international standards that relate to risk analysis and risk assessment. They indicated that these principles were applied to the SPS measures Egypt develops for animal and plant health and foods.

However, significant issues exist in relation to the consistency of the inspection and testing measures applied to imported goods in Egypt compared to those applied to locally produced goods in the context of the SPS Agreement. This report also raises concerns that the equivalency provisions of the SPS Agreement are not observed when it comes to acceptance of foreign government certification and testing arrangements.

Egypt has made some progress in consolidating plant health measures and publishing these measures, not only in Arabic but in English as well. However, to meet transparency requirements related to the WTO much remains to be done.

The net result of Egypt's current technical measures including inspection and testing practices is that substantial resources are directed toward areas that do not constitute a high risk to humans, animals, or plants. The conclusion to be drawn is that Egypt would be better served from an animal, plant, and human health perspective if resources were

directed toward the areas of highest risk. Benefits would also flow directly to improving the export performance of Egypt if resources currently concentrating on relatively low-risk situations were redirected towards improving market access for Egyptian agricultural and food exports.

This report analyses the current situation and advises on how improvements can be effected to the SPS infrastructure in Egypt with particular focus on coordination of SPS activities, notification authority and enquiry point processes and coordination, risk analysis and transparency generally. Technical assistance needs have been identified.

1. Background

This project was undertaken in two parts to enable the assessment team and counterparts in the Egyptian Ministry of Foreign Trade and Industry (MoFTI) time to consider issues identified during the course of the first visit.

During the first visit from August 14 to September 8, 2004, discussions were held with a range of agencies relevant to the project.

The principal tasks undertaken in phase one included

- A framework and guidance for conducting a Sanitary and Phytosanitary (SPS) Agreement compliance assessment (Part I) was developed;
- A report that addressed the following areas, prepared and submitted to FTFS and the assessment team, suggesting a framework for incorporating measures of risk assessment and introducing acceptable level of protection principles in Egypt's food inspection process (Part I), cataloguing the main features of selected countries' systems, and addressing risk assessment and acceptable levels of protection principles (Part I); and
- A workshop and training course on the SPS Agreement, held September 5-7 for GOEIC, FTFS, CD-WTO, and MoALR staff, during which the opportunity was taken to broadly cover the outcome of the visit to date and review knowledge gaps.

Phase two of the project, undertaken from November 21 to December 8, 2004, built on the work undertaken in phase one and identified specific improvements that Egypt can make to meet its obligations under the SPS Agreement. Egypt can take some action with its current capacity, but some changes will require targeted technical assistance from either USAID or another development assistance source.

A second one-day workshop was held on December 8 and a half-day SPS training course was developed and delivered to GOEIC officers on December 1.

2. Introduction

This report provides an assessment of Egypt's compliance with the World Trade Organization (WTO) SPS Agreement. It includes

- An assessment of Egypt's general compliance with the SPS Agreement,
- An assessment of Egypt's compliance with specific aspects of the SPS Agreement, including
 - Notification and enquiry point functions,
 - Transparency of SPS measures,
 - Risk analysis, and
 - The legal framework in Egypt
- Analysis of how domestic, import, and export systems are operated in other countries from the perspective of risk assessment and the acceptable level of protection.

This study has considered the situation in relation to the domestic market, exports, and imports. It recommends specific capacity building and technical assistance measures that can be pursued with a view to strengthening Egypt's capacity to comply with the SPS Agreement.

Egypt has a long history in the development of standards generally, including the development of a standard for the cubit some 3,000 years ago. The effective application of this standard can be seen today in many historical sites in Egypt.

The SPS Agreement is a difficult agreement for many members of the WTO; it is especially difficult for developing country members whose institutional arrangements are generally not as well organized as those of developed countries. Egypt is no exception in its limited capacity to meet its obligations under the SPS Agreement.

The lack of scientific capacity is the most common problem that the author has encountered in visits to 25 developing countries in the past eight years. However, Egypt does have strong scientific capacity and therefore does not have this problem. Instead, Egypt faces challenges related to structural arrangements, coordination between agencies, specific training needs, and lack of IT infrastructure.

The SPS Agreement

This study has focused on the following principals of the SPS Agreement:

- Transparency in a wide context as well as in the more specific context of operating enquiry-point and notification processes
- Assessment of risk, consistent application of risk, and appropriate level of protection
- Control and approval processes
- Equivalence.

TRANSPARENCY

The transparency provisions are designed to facilitate the open flow of information about technical measures in any member country, including the process that leads to technical measures being developed. The notification of measures in draft form to the SPS Secretariat and through the Secretariat to member countries for comment (unless an emergency situation exists) is a cornerstone of the process.

All measures developed since 1995 should be available in the English language and an enquiry point should be operating effectively in each member country to facilitate the provision of responses to enquiries by other member countries.

Egypt is making progress in some areas in meeting the general transparency requirements (for example, plant quarantine). However, enquiry point and notification authority obligations are not being met.

RISK AND CONSISTENCY

The SPS Agreement is based on the concept of scientific justification of risk and the consistent application of this against the appropriate level of protection that each country adopts. Risk analysis is the principal tool that countries are encouraged to use in assessing the level of risk associated with importing any commodity that may pose a sanitary or phytosanitary risk to the country.

Consistency of the technical measures adopted by a country is integral to the use of risk analysis.

Egyptian plant and animal health authorities have indicated that they use the internationally accepted principles of risk analysis in the development of technical measures. Codex Alimentarius (Codex), the organization responsible for international food standards, has not yet completed a standard for risk analysis. Many Egyptian SPS measures relating to food have as a basis scientifically accepted risks to human health. However, a substantial number of technical measures applied to food do not have their basis in the principals of the SPS Agreement. Most would come under the Technical Barriers to Trade

(TBT) Agreement, and a general examination conducted under this study found that these measures are unlikely to be consistent with the provisions of that agreement.

A very significant issue in Egypt relates to the consistent application of risk.

CONTROL AND INSPECTION

The control and inspection provisions of the SPS Agreement broadly stipulate that any requirements for control, inspection, and approval of individual specimens of a product are limited to what is reasonable and necessary. Furthermore, such procedures are to be undertaken and completed without undue delay and in no less favorable manner for imported products than for like domestic products.

Egypt has made good progress in moving to a situation where a single organization, the General Organization for Export and Import Control (GOEIC), coordinates inspection activity among a number of different agencies. However, questions can be raised about the reasonableness of some control and inspection procedures, including the extent to which Egypt accepts government-to-government certification, and the real need for inspection and testing of all imported shipments. The extent to which domestically produced product is subject to control and inspection compared to imported product is also a very significant issue for Egypt in terms of its WTO SPS obligations.

EQUIVALENCE

The SPS Agreement requires that members recognize the equivalence of other members' SPS measures, even if the measures differ from their own, when they can be objectively shown to provide the same level of sanitary or phytosanitary protection.

In Egypt, there is some evidence of acceptance of this obligation in relation to actual sanitary and phytosanitary measures. However, acceptance of inspection, testing, and certification of exporting countries seems to be limited against the background of the extensive inspection and testing applied to imported goods at Egyptian ports.

MEETING THE GOALS OF THE SPS AGREEMENT

In terms of meeting the broad goals of the SPS Agreement, most countries are organized in such a way as to focus specific plant and animal health (and related inspection and testing activity) expertise on issues relating to these subject areas. Typically, these functions are located in the Ministry of Agriculture. Food-related technical measures are typically developed by a food standards organization generally located under the ministry responsible for health. This organization may have inspection and testing capacity. In some countries, the inspection workforce that is part of the Ministry of Agriculture undertakes inspection and testing of foods.

In Egypt GOEIC has a general mandate over inspection and testing, although when necessary, specialist resources are used from the plant and animal health areas of the Ministry of Agriculture and Land Reclamation (MoALR).

The development of technical measures is undertaken by the Egyptian General Organization for Veterinary Services (GOVS) in the case of animal health, Central Administration for Plant Quarantine (CAPQ) in the case of plant quarantine, and the Ministry of Health and Population (MoHP) in the case of food. The development of technical measures typically involves other relevant agencies through a committee structure.

The Legal Framework in Egypt

Egypt has a legal framework for SPS-based measures based on decrees. Some decrees spell out general arrangements and others contain more-specific details on technical requirements. It is common for a number of pieces of legislation to be used to spell out general and specific technical measures in the area of SPS requirements.

The legal framework that supports the implementation of SPS-related measures in Egypt includes the following:

- ***Presidential Decree No. 106/2000, Facilitation of Export and Import Inspection and Control Procedures*** mandates, among other requirements, that the GOEIC exclusively supervise any and all inspection and control performances related to exports and imports subject to quality control and that inspection and control take place in one stage.
- ***Prime Ministerial Decree No. 1186/2003, Export and Import Inspection and Control Procedures*** includes a review of Presidential Decree 106/2000 and states, inter alia, that
 - GOEIC is competent to fulfill inspection procedures regulated in accordance with the aforementioned laws on ionized radiations and protection against their risks, as well as control on foodstuffs, agriculture, import and export;
 - The Egyptian Organization for Standardization (EOS) must notify GOEIC of standards and technical regulations issued or approved thereby, as well as modifications to be introduced thereto.
- ***Minister of Foreign Trade Decree No. 515/200, Import and Export Inspection and Control Procedural System***, includes a review of Presidential Decree 106/2000 and Prime Ministerial Decree 1186/2003 and states, inter alia, that
 - GOEIC is responsible for
 - Inspection of exports and imports subject to legal provisions related to ionized radiations and their risk prevention as well as food control, agriculture, import and export mentioned above.
 - Supervision of export and import inspection and control operations pursuant to quality control rules;

- Inspection of commodities as requested on an optional basis by individual applicants.
- GOEIC is the exclusive authority to which Customs refers import or export consignment documents for which laws and regulations obligate submission to appropriate control authorities.
- GOEIC must abide by export certificates issued by appropriate authorities at the MoALR and MoHP who assess conformity to health, agriculture, veterinary, and radiation quarantine requirements.

The legal framework of Egypt as it relates to SPS inspection activity for an import involves a number of agencies, with GOEIC having overall control. MoALR and MoHP provide specialist resources for inspection and testing for plant and animal health pests and diseases.

GOEIC does have scientific capacity and applies this capacity to a range of inspection and testing measures, many of which are TBT issues or relate to protection of Egyptian consumers from fraud in the context of the stated quality of goods.

Under the present model, GOEIC acts as a single agency in terms of coordinating inspection and testing activity.

For exports, GOEIC must accept the certification and therefore underlying inspection of products provided by MoALR and MoHP. GOEIC's role in the context of exports relates to coordinating the activities of MoALR and MoHP as well as an involvement in quality and grade issues.

Key Agencies Involved in SPS Matters in Egypt

MoFTI has general policy responsibilities relating to foreign trade. It has a WTO Department, which is Egypt's WTO enquiry point.

EOS publishes all standards, although a review of the EOS website shows that this does not appear to include all SPS measures as they relate to human, animal, and plant health. Standards that currently appear on the EOS website are all ISO standards.

MoALR, through GOVS and CAPQ, has responsibility for developing SPS measures that relate to animal health and plant protection. MoALR is the SPS notification authority and has an SPS enquiry point and related office.

MoHP has responsibility for the development of health-related measures for food.

GOEIC has a general mandate for export and import inspection, as outlined in the decrees detailed above.

3. Analysis of SPS Issues in Egypt

Appropriate Level of Sanitary and Phytosanitary Protection or Acceptable Level of Protection

SPS AGREEMENT PROVISIONS

The appropriate (acceptable) level of protection or risk is a critical overarching issue in the SPS Agreement. Integral to an acceptable level of protection is the notion of consistency. The SPS Agreement looks for members to take a consistent approach to risk and the SPS measures that they develop. The aim of an acceptable level of protection is to minimize the risk of an unwanted pest or disease incursion that may cause serious biological or economic damage to a country or its people. Also encompassed in appropriate level of protection are health issues related to residues, toxins, and the microbiological status of food.

Essentially, member countries' SPS measures should be based on an assessment of risk to human, animal, or plant life that takes into account

- Risk assessment techniques developed by relevant international organizations;
- Available scientific evidence; relevant processes and production methods; relevant inspection, sampling, and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment;
- Relevant economic factors – the potential damage in terms of loss of production or sales in the event of the entry, establishment, or spread of a pest or disease; the costs of control or eradication in the territory of the importing member; and the relative cost-effectiveness of alternative approaches to limiting risks; and
- The objective of minimizing negative trade effects.

These measures must avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations. Members therefore must ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility. When scientific evidence is insufficient, a member may adopt sanitary or phytosanitary measures provisionally.

OTHER COUNTRIES

Each member country has the right to determine its own appropriate level of protection, and there are substantial variations between the levels chosen by countries. For example, Singapore and Hong Kong could be regarded as having a low appropriate level of protection from an animal and plant health perspective (although high from a human health perspective) because it has minimal capacity to engage in plant or animal production. However, countries such as Australia and New Zealand are regarded as having a very high appropriate level of protection, reflecting the economic significance of agricultural industries to the countries, both in terms of domestic production and export.

The great majority of developed countries have risk-based systems and an appropriate level of protection that reflects their need to maintain freedom from serious pests. The need to have a risk-based system is often an imperative in terms of government budgetary considerations. Often the agencies involved in SPS policy and enforcement are under great funding pressure and can focus only on the areas of highest risk because staff and financial resources do not permit them to focus on lower-risk situations.

Nearly all countries, developed or developing, have a small number of sensitive commodities subject to the SPS Agreement. Typically, the producers of such commodities in the country concerned have a degree of political influence. Although the agencies involved in SPS considerations do not operate in a political sphere, the political pressure that is brought to bear on them often leads to extended timeframes for considering modifications to sensitive SPS measures. This issue is one that the WTO Disputes process tends to become involved in, and the results of recent SPS dispute panels suggest that this mechanism can lead to a more reasonable SPS measures being introduced for sensitive products.

Nevertheless, for the most part, countries have only a small number of sensitive products, and other products face only what are reasonable SPS measures.

The issue of consistency is a difficult one for many countries. SPS disputes heard in the WTO have focused on the issue of consistency. In the case that Canada brought against Australia in relation to Australia's prohibition on the importation of salmon, the panel found that Australia had other SPS measures in place that were not consistent with its approach to salmon and therefore upheld Canada's appeal. Specifically, Australia allowed the importation of other marine species, including fish, that potentially could have carried one of the diseases highlighted as a reason for maintaining a prohibition on the importation of Canadian salmon.

Consistency is also an issue when a country has long land borders and therefore difficulty in controlling the entry of goods that may pose a risk to animal or plant health (and may be smuggled). Setting a very high appropriate level of protection against a background of weak border enforcement, whether intentional or not, is likely to make consistency difficult to achieve.

PATHWAYS

A pathway is the means by which an unwanted pest or disease enters a country. An unwanted pest can enter a country through a number of pathways; broadly speaking, pathways can be through regulated or unregulated goods or a natural pathway.

Regulated goods are goods for which specific conditions – such as inspection or a treatment of some sort – have been developed to allow access by another country. Unregulated goods could include goods inadvertently or deliberately smuggled by arriving passengers through international ports, airports, and border entry points.

Additional nonspecific pathways include natural pathways, such as a bird or insect flying in over a land border and wind-blown spores of a disease being carried naturally across a border; and on the outside of shipping containers and the like (such as unwanted bees, spiders, and snails carried by a hitchhiker).

It is generally recognized that substantially greater risks are associated with unregulated goods.

Having a consistent approach to the SPS status of a country would suggest that as far as practicable the risk of an unwanted pest incursion be minimized for all pathways.

THE SITUATION IN EGYPT

Egypt does not have the natural advantage in excluding unwanted pests and diseases carried by natural pathways enjoyed by island countries such as Australia and New Zealand. But Egypt does have many SPS measures in place for regulated goods. In conjunction with these measures are inspection and testing procedures applied by agencies such as GOEIC and MoALR.

Egypt maintains pest-free areas in the country for diseases such as Potato Brown Rot.

With regard to unregulated goods, for passengers arriving at Cairo international airport, Egypt appears to have minimal measures (except in relation to live animals) for preventing an unregulated import of an unwanted pest by an incoming passenger. For example:

- Information for arriving passengers about what animal, plant, or food products can be imported into Egypt does not appear to be available.
- Passengers on incoming aircraft complete an immigration declaration but no declaration as to whether they are carrying animal, plant, or food on their person or in their carry-on or checked baggage.
- There are no public awareness signs at Cairo international airport to assist a passenger in declaring goods that might be of concern.
- No in-flight announcements are made and no video information is provided to incoming passengers relating to Egypt's plant and animal product requirements.

The entry of unregulated goods into Egypt was acknowledged as an issue during discussions held with government officials: It will be difficult to establish the appropriate

levels of protection for regulated and unregulated goods that may have SPS implications for Egypt and the enforcement of measures for both.

Consistency is also an issue in terms of the extent of testing applied to individual imported foods relative to the level imposed on domestically produced foods.

Notification Authority, Enquiry Point, and Transparency

SPS AGREEMENT PROVISIONS

The SPS Agreement requires countries to notify the WTO of proposed new SPS regulations or modifications to existing regulations whenever an international standard, guideline, or recommendation does not exist, or the content of a proposed SPS regulation is not substantially the same as the content of an international standard, guideline, or recommendation, and, in both cases, if the regulation may have a significant effect on the trade of other countries. The WTO requires that all technical measures developed since 1995 be available in one of the three official WTO languages – English, French, or Spanish.

For the sake of improved transparency, the WTO encourages countries to also notify of regulations that conform to international standards. However, this is not mandatory.

What constitutes an “international standard, guideline, and recommendation” is also specifically defined (SPS Agreement, Annex A, paragraph 3):

- **For food safety** – the standards, guidelines, and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice
- **For animal health and zoonoses** – the standards, guidelines and recommendations developed under the auspices of the Office International des Epizooties (the OIE)
- **For plant health** – the international standards, guidelines, and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with regional organizations operating within the framework of IPPC.

No other standard-setting bodies have been recognized by the SPS committee for matters not covered by the above organizations, although this possibility is allowed under the agreement.

The WTO encourages members to have at a minimum fax-communication capability in respect of SPS measures. However, countries are encouraged to publish SPS regulations on the World Wide Web when possible. Publication on the Internet has a number of advantages and benefits over publication through more traditional methods:

- Allows for greater transparency;
- Makes it easier for countries to obtain documents; and

- Reduces the work involved in processing and fulfilling document requests.

A handbook relating to SPS transparency that covers enquiry point and notification authority is available from the WTO website. According to this handbook, as of September 2002, 90 countries had submitted more than 3,100 notifications, and 117 countries had established notification authorities.¹

Responsibilities of the Notification Authority

A notification authority has the following responsibilities:

- Decide whether a notification is necessary
- Decide when to notify
- Write a notification
- Respond to requests for notified documents
- Follow up on notifications made by other countries
- Make submissions and comments.

It routinely performs the following tasks:

- Submit a notification through the WTO Secretariat when a new measure is proposed or a measure is changed
- Allow reasonable time for other countries to make comments in writing
- Discuss these comments upon request
- Take the comments and the results of the discussions into account
- Explain to the submitting country how it plans to take the comments into account
- Where appropriate, provide additional relevant information on the proposed SPS measure concerned;
- Provide the submitting country with a copy of the text of the corresponding SPS regulations as adopted, or information that no corresponding SPS measure will be put into force for the time being.

Except in emergencies, a notification should be made when a draft with the complete text of a proposed regulation is available, and when amendments can still be introduced and comments taken into account.

Notification procedures require that measures be notified “well before the entry into force of the relevant measure.” This means that a notification should be made when a draft with the complete text of a proposed regulation is available and when amendments can still be introduced and taken into account. The procedures recommend a normal time limit for comments on notifications of at least 60 days before a measure comes into force.

¹ The handbook includes examples of forms to be used and a detailed description of notification authority and enquiry point requirements (http://www.wto.org/english/tratop_e/sps_e/sps_e.htm).

Notifying countries should grant requests for extension of the comment period whenever practicable, in particular for notifications relating to products of particular interest to developing countries. Extensions may be necessary when there have been delays in receiving and translating the relevant documents or where there is a need for further clarification of the measure notified. A 30-day extension should normally be provided.

For proposed SPS measures that unambiguously facilitate trade, countries may reduce or eliminate the period for receiving comments. But to enhance transparency, notifications should be made as early as possible.

The routine consultation process can be reduced or eliminated in genuine emergencies, which the SPS Agreement defines as cases “where urgent problems of health protection arise or threaten to arise” for the country implementing the measure. Emergency measures may be notified either before or immediately after they come into effect, with an explanation of the reasons for resorting to emergency action, as requested in the emergency notification form.

Three to four days after the Secretariat has received a notification from a member country, it circulates the notification first in the original language to all members. The translations into French and Spanish follow as soon as they are completed by the WTO (for members who have requested notifications in those languages).

The notifications are automatically provided only to the missions of members to the WTO, primarily Geneva-based missions. The missions receive a single paper copy and it is their responsibility to forward it to enquiry points or notification authorities at home. Upon request, the Secretariat can also mail notifications to a single address in the capital provided by the mission. All SPS notifications and documents are placed on the WTO's website and are available for downloading.

In addition, members who wish to receive notifications by e-mail, currently sent twice a week, can subscribe to this service.

Operating the SPS Enquiry Point

The enquiry point is the single government body responsible for providing “answers to all reasonable questions” from interested countries and for providing relevant documents regarding

- Any sanitary or phytosanitary regulations adopted or proposed within its territory;
- Any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
- Risk assessment procedures and factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;

- The membership and participation of the country, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems,
- The membership and participation of the country in bilateral and multilateral agreements and arrangements within the scope of the SPS Agreement; and,
- The texts of such agreements and arrangements.

Enquiry points should also provide, upon request, information on participation in any bilateral or multilateral equivalence agreements and arrangements.

Although notification of equivalence is not a requirement in the SPS Agreement, in June 2002 the SPS Committee adopted a decision on the subject, the Recommended Procedures for the Notification of Determination of the Recognition of Equivalence of Sanitary and Phytosanitary Measures. According to these procedures, when a country has made a determination recognizing an SPS measure of another country as equivalent, it should make a notification of the measures that have been recognized and of the products affected. When significant changes are made to an existing equivalence arrangement, these should also be notified, including suspension or rescission of such arrangements.

For notification purposes, equivalence is defined as “the state wherein sanitary or phytosanitary measures applied in an exporting country, though different from the measures applied in an importing country, achieve, as demonstrated by the exporting country and recognized by the importing country, the importing country’s appropriate level of sanitary or phytosanitary protection. A determination of the recognition of equivalence may be with respect to a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis.”

Publication of Requirements

The fundamental component of transparency under the SPS Agreement is publication of regulations. This is a general obligation on WTO members and does not relate specifically to the work of either the notification authority or enquiry point.

WTO members are obliged to ensure that all SPS regulations—including laws, decrees or ordinances that are generally applicable—that have been adopted are published promptly in such a manner as to enable interested countries to become acquainted with them. They also must allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force, except in urgent circumstances, to allow time for producers in exporting countries, particularly in developing countries, to adapt their products and methods of production to the requirements of the importing country.

Location of the SPS Notification Authority and Enquiry Point

Most countries find it convenient for the notification authority to be operated by the government department that is most concerned with the responsibilities covered by the SPS Agreement (i.e., food safety, animal health, or plant health).

The notification authority should have access to or have relationships with the technical experts who write regulations (potentially future SPS measures) in the sanitary and phytosanitary areas. The primary role of the notification authority is to oversee the notification process and scrutinize outgoing notifications to see they are correctly completed.

The agency designated as the enquiry point should have relationships with officials in the areas of food safety and animal and plant health so that answers to any requests can be readily obtained.

There is an advantage to having the same body operating both the national notification authority and enquiry point, and in Egypt, MoALR is the logical choice. The principal benefit of such an arrangement is to minimize the impact on financial and physical resources and to build up trade policy expertise in this area in a dedicated unit. In addition, it eliminates the need for coordination between the notification authority and enquiry point.

PRACTICE IN OTHER COUNTRIES

Many WTO members—developed and developing countries—have enquiry point and notification authority arrangements that function well and comply with the provisions of the SPS Agreement. Developed countries invariably have the infrastructure such as information technology that facilitates meeting SPS obligations. Some developing countries also appear to meet SPS obligations in this area. India, Turkey, Mauritius, El Salvador, Jordan, Zambia, Chile, and Fiji (a small country of less than a million people) have made SPS notifications to the SPS Secretariat in Geneva.

The transparency of the SPS measures of developing countries is also improving markedly, and ascertaining the SPS requirements for a particular commodity is therefore becoming easier.

Developing countries increasingly use the Internet to provide advice about conditions of importation. Examples include

- Malaysia—The Ministry of Agriculture has a well-developed website with links to legislation and policies as well as some import quarantine requirements (<http://www.pelion.com.gr/agrotika/odigostouagroth.htm>);
- Lebanon—The Ministry of Agriculture has a well-developed website including links to legislation. Although the website is available in English, the included legislation has not yet been translated (<http://www.agriculture.gov.lb/>);
- Mongolia—It has a well developed home page but has only limited information in English (<http://gate1.pmis.gov.mn/mofa/>);
- Qatar—A well developed home page but has only limited information in English (<http://www.mmaa.gov.qa/>);

- Indonesia: (<http://www.deptan.go.id/english/index.html>) A well developed website with legislation and many requirements available in English;
- Mauritius – A reasonably well developed website with a list of legislation provided. The web site of the Ministry for Health has a full copy of the Food Act (in English) that was updated and consolidated in 1998. Detailed technical measures not yet available (<http://ncb.intnet.mu/moa/vete.htm>).

THE SITUATION IN EGYPT

The Ministry of Foreign Trade has a WTO Department and an enquiry point. This enquiry point is the focal point for all measures and within the WTO Department Chairmanship and coordination of Egypt's SPS Subcommittee takes place.

MoALR, the notification authority for SPS measures, also has an enquiry point for SPS measures. The office of the enquiry point in MoALR appears to have a staff of approximately 10 officers but no IT infrastructure. Links to GOVS and CAPQ do not appear to be well developed. The overall impression is that the office is an SPS enquiry office and notification authority in name only. Because of the highly technical nature of many SPS measures, measures are developed by the GOVS, CAPQ, and MoHP.

A review of the WTO website shows that no measures have been notified by Egypt to the SPS Secretariat in Geneva. This is in contrast to a number of other developing countries (mentioned above) that have notified measures recently. A recent example is a measure relating to bird flu (Avian Influenza) because a number of Asian countries required the notification of a provisional or emergency measure.

The infrastructure, including information technology (Internet and e-mail capacity) and related systems, available to the enquiry point and other key agencies in Egypt is inadequate. Coordination between the various agencies involved in SPS matters is problematic and the agencies lack an understanding of their responsibilities under the SPS Agreement and how links with other agencies contribute to meeting these responsibilities. Furthermore, staffing is inadequate or the staff is not well trained. Egypt therefore is not meeting its obligations under notification requirements of the SPS Agreement.

In terms of the publication of measures, Egypt has made some progress in recent years in consolidating and publishing SPS measures relating to plants, animals, and foods in printed form. For example, plant quarantine rules and regulations are available in English as well as Arabic and provide details of conditions for access of a particular product that a foreign supplier may consider exporting to Egypt. These conditions are now scheduled to be available on the MoALR website. More countries are making conditions of access available on websites, and this should be Egypt's aim.

In the case of animals and animal products, GOVS holds a consolidated list of conditions applicable to goods that a foreign exporter may wish to export to Egypt. However, this document is not yet available in English.

In the case of foods generally – that is, foods that do not pose a pest risk in the context of animal health or plant protection but that may pose a risk to human health – the MoHP expects to have a consolidated list of measures by the end of 2004, although many details, such as inspection and testing procedures, are not available in English. The MoHP measures are not available on the Internet.

The MoALR website has useful information about the ministry generally. However, it has very limited information about Egypt's SPS requirements and therefore there is plenty of scope for upgrading the website.

Locating both the SPS notification authority and enquiry point MoALR will make the best use of scarce resources and build up the capacity of MoALR to participate in trade policy issues related to the SPS Agreement.

Strengthening enquiry point and notification authority arrangements will benefit Egypt by facilitating Egypt's ability to comment early on SPS measures proposed by other countries that may negatively affect Egypt's exports. Notifications are made on a virtually daily basis, and being able to manage the flow of notifications, decide quickly whether comment is necessary, and ensure comment is passed back in the stipulated timeframe are important elements of managing SPS notifications.

Some of these measures are likely to be of direct relevance to Egypt. If Egypt does not take the opportunity to comment during the one- or two-month comment period, the measure may increase the difficulty for Egypt in exporting a particular product. It is easier for Egypt to seek a change to a draft measure to a measure that has passed through the notification process and is firmly in place. Ensuring as far as possible that new or more stringent measures introduced by other countries do not disadvantage Egypt's export potential is an important advantage to be gained from having well-structured enquiry point and notification authority arrangements; strengthening enquiry point and notification authority arrangements also will help Egypt meet its obligations under the SPS Agreement.

Risk Analysis

SPS AGREEMENT PROVISIONS

The SPS Agreement obligates members to ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal, or plant life or health, taking into account risk assessment techniques developed by relevant international organizations. Measures implemented should be the least trade-restrictive.

Codex, OIE, and ICPM have developed risk assessment techniques, although the Codex document is still a draft. All these international organizations consider that risk analysis consists of the following components:

- Risk identification and assessment
 - For animal and plant health risks – typically involves comparing a pest list from the exporting country to a pest from the importing country; significant pests in the exporting country are considered in the context of possible pathways and whether it is possible to manage the risk in some way
 - For food – normally involves an assessment using known principles such as HACCP; toxicological and microbiological issues relevant to humans are also part of considerations.
- Risk management, in which countries are expected to consider measures that can be taken to manage an identified risk with a view to the least trade-restrictive measure being put in place; and
- Risk communication – in key stakeholders and the general public are given information about risks and how they can be managed.

INTERIM COMMISSION ON PHYTOSANITARY MEASURES

The ICPM has published a standard for risk analysis (ISPM 6). This standard includes

- Definitions of the most commonly used terms in pest risk analysis;
- A discussion of how to initiate the process of pest risk analysis by identifying pests or pathways for which the analysis is needed;
- Guidance on how pest risk assessment determines whether each pest identified as such, or associated with a pathway, is a quarantine pest, characterized in terms of likelihood of entry, establishment, spread, and economic importance;
- Guidance on pest risk management, which involves developing, evaluating, comparing, and selecting options for reducing the risk.

OIE

OIE provides definitions of key terms and guidelines to help with risk analysis. The guidelines discuss

- Hazard identification,
- Principles of risk assessment.
- Risk assessment steps,
- Principles of risk management,
- Risk management components, and
- Principles of risk communication.

CODEX

Codex is in the process of developing a standard to provide guidance to members covering risk analysis relating to food. In May 2004, a working paper on risk analysis had reached

stage 3 of the process. The current Codex texts on risk analysis for specific areas are the following:

- Food Hygiene – Principles and Guidelines for the Conduct of Microbiological Risk Assessment
- Foods Derived from Biotechnology;
 - Principles for the Risk Analysis of Foods Derived from Modern Biotechnology
 - Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant DNA Plants
 - Guideline for the Conduct of Food Safety Assessment of Foods Produced Using Recombinant DNA

FAO AND WHO

In relation to the practical application of risk analysis, FAO and WHO are developing a Manual on risk analysis, Food Safety Risk Analysis—An Overview and Framework Manual, that is in the process of finalization. The manual has been developed to improve food safety regulators' understanding and use of risk analysis as the basic framework for a modern food safety system. It is intended to provide essential background information and guidance for regulators and other officials responsible for managing and/or supervising risk analysis in practice. It presents a framework and principles to structure and guide the application of risk analysis rather than a prescriptive formula for implementing risk analysis. This manual will be the first part of a three-part set, which encompasses:

- Part I: Food Safety Risk Analysis – An Overview and Framework Manual
- Part II: Food Safety Risk Analysis Case Studies
- Part III: Resources for Building Capacity in Food Safety Risk Analysis (CD-ROM)

The risk analysis process for foods should follow a structured approach incorporating the three distinct but closely linked components of risk analysis (risk assessment, risk management, and risk communication), each being integral to the overall risk analysis process. The three components of risk analysis should be applied within an overarching framework of strategies and policies to manage food-related risks to human health.

The three components of risk analysis should be documented fully and systematically in a transparent manner. While respecting legitimate concerns to preserve confidentiality, documentation should be accessible to all interested parties.

Effective communication and consultation with all interested parties should be ensured, established, and maintained throughout the risk analysis process.

The component of food safety risk assessment referred to above should be soundly based on science, should incorporate the four steps of the risk assessment process—hazard

identification, hazard characterization, exposure assessment, and risk characterization—and should be documented in a transparent manner.

PRACTICE IN OTHER COUNTRIES

The development of standards and norms by international organizations such as Codex, OIE, and the ICPM has led to the adoption by many member countries of a risk analysis process that meets SPS Agreement obligations and is transparent. The basic principles of risk analysis followed by most countries include

- Risk identification, in which the hazards that may be of concern are identified;
- Risk assessment, in which the hazards are assessed against the risk of entry and establishment;
- Risk management, in which consideration is given to management measures that may be taken to reduce any risk of an incursion against the background of complying with the WTO principle of “least trade restrictive”; and
- Risk communication.

Some countries now can provide a documented outline of the process that they use when formulating an SPS measure. Later in this report, an outline of an appropriate process for Egypt is provided.

An outline of the risk analysis process is regarded as the starting point for publishing a more detailed explanation of the risk analysis process. Having a publicly available document that outlines the risk analysis process used can be regarded as a cornerstone of meeting the transparency provisions of the SPS Agreement.

In the case of Australia, the various steps in the import risk analysis process that is used is outlined in a publication that is available in printed form and on the Internet.

THE SITUATION IN EGYPT

GOVS, CAPQ, and MoHP indicated that internationally recognized principles of risk analysis are used for the development of new SPS measures. CAPQ officers discussed a hypothetical importation request and the steps that Egypt uses to evaluate a request for access for a fruit from another country. The process outlined is based on the international standards for plant risk analysis.

During meetings with animal and plant quarantine, specific examples were explored in terms of how technical measures were developed. The processes that were outlined supported the contention that internationally accepted practices for risk analyses are used. However, there were significant variances in SPS obligations regarding the equivalence and consistency provisions of the agreement.

Indications were provided that many of Egypt’s SPS measures are identical to those recommended by the relevant international agencies.

Senior officers with whom meetings were held were well acquainted with the work of international agencies such as Codex, OIE, and the ICPM and regularly followed the standards and norms developed by those agencies.

Egypt has an issue related to the consistency of SPS measures between regulated goods and unregulated goods measures and similarly between the extent of enforcement of SPS measures for imports compared to the extent of enforcement for domestically produced goods. It is common for countries to have a small number of sensitive commodities for which issues of consistency can easily be identified. However, Egypt has many technical measures and inspection and testing requirements that bring the issue of consistency in the application of risk into question.

Standards vs. Technical Measures

The difference between standards and technical measures needs to be clarified for the purposes of this discussion.

In Egypt, EOS is responsible for the development and publication of standards for a wide range of products. It does not publish standards related to sanitary and phytosanitary measures as they apply to plant and animal health, which are developed by MoALR, and as is the case in most if not all countries, are maintained in a database by specialized groups in MoALR (GOVS and CAPQ).

Technical measures are not easily manageable by an organization such as EOS. This is because they can change very quickly, for example through a provisional measure (emergency) notification or a change in the pest and disease status of Egypt or another country. Not only can individual measures change quickly, but also a change in one measure can imply a change in a large number of other technical measures. For example, an outbreak of foot-and-mouth disease in a country that exports meat to Egypt may result in changes in technical measures to a variety of meats such as sheep meat and beef as well as to products such as dried, frozen, chilled, or ground product, and other products that may contain meat as an ingredient.

There is therefore a compelling case for technical measures to be maintained in a database by MoALR, and for MoALR to be directly responsible for meeting transparency obligations related to the SPS Agreement.

4. Comparison of Food Control Systems

The Hazard Analysis and Critical Control Points (HACCP) technique is used in many countries as a basic food safety tool. Requirements for food-producing establishments often involve the development and operation of a food safety plan based on HACCP.

Import and Domestic

PRACTICE IN OTHER COUNTRIES

Australia's SPS measures for animal and plant health attract criticism from other countries. A dispute initiated by the EU involving a number of quarantine restrictions is active in the WTO disputes mechanism. The system used by Australia (and New Zealand) for the development of food standards and enforcement of those standards for imported food has generally not been the subject of complaints from other countries, however.

The Australian Food Standards Code provides details of all food standards, which apply equally to imported and domestically produced food. The system is based on standards development and standards enforcement.

Standards Development

The Australian food standards code is publicly available in print and electronic form, including on the Internet. The code specifies measures relating to human health for particular foods. Nearly all food standards are based on Codex standards.

The development of new standards is publicly notified, and comments are sought and considered in detail before finalization and enforcement of any new standard. This is in accord with the provisions of the SPS Agreement.

A categorization for imported food is publicly available on the Internet or in hard copy. Foods are classified into risk-categorized foods (high risk), active-surveillance foods (medium risk), and random (low-risk) categories. Inspection and testing are directed according to these classifications. The level of risk is scientifically determined according to the risk of the food to human health. A few foods are classified as high risk in terms of their potential impact on human health; they constitute less than 5 percent of all foods imported

to Australia. The medium-risk category is also small, while the low-risk category constitutes about 90 percent of all foods imported into Australia. If a food is not in the high- or medium-risk category, it automatically falls into the low-risk category. The current list of high-risk foods is in Appendix F. All food that is imported into Australia is subject to inspection or inspection and analysis under the Imported Food Inspection Scheme.

Standards Enforcement

The inspection and laboratory analysis effort applied to foods imported to Australia reflects the relative risk of those foods to humans. A single group of inspectors works with a single agency that inspects imported food as well as animal and plant products. The agency is the Quarantine and Inspection Service (AQIS) under the Ministry of Agriculture, Fisheries, and Forestry. Imported food controls were introduced by legislation in 1982, and at that time separate groups of inspectors inspected imported foods for quarantine (that is animal and plant health) purposes and for food safety. This was regarded as inefficient, and the private sector complained about the number of inspections by different government agencies and the cost of inspections. In the late 1980s, AQIS moved to train its inspection workforce in multiple skills so that only one inspection would need to be performed on goods for both quarantine and imported food inspection purposes.

The reason that all imported food inspection and quarantine inspection is undertaken by the Ministry of Agriculture is that a single agency would facilitate trade, while AQIS inspection staff would still have easy access to scientific expertise across a range of disciplines if they required further advice. If laboratory analysis is required, AQIS inspectors take samples and send them for analysis to the Australian Government Analytical Laboratory or an accredited private sector laboratory (at the request of the importer) for analysis.

Import and domestic inspection regimes are broadly equivalent, although domestic food inspection is undertaken by state and local government authorities rather than the federal government.

The imported food system rewards food importers that have a good record of compliance with imported food requirements by reducing enforcement activity. This enforcement activity can take the form of physical inspection or laboratory testing and the cost is recovered by AQIS. Importers therefore have a financial incentive to import complying product.

The U. S. system for the development of food standards is the Food and Drug Administration (FDA). Measures are published in the Code of Federal Regulations. As in most countries, the great majority of food standards in the United States are based on Codex standards.

In the case of meat and poultry imports, the Food Safety and Inspection Service undertakes the enforcement of food standards at the border. It does so using a sampling basis that

effectively rewards regularly complying imports while penalizing, through increased sampling and testing, imports that do not comply with requirements.

HACCP is the basis of food-related requirements for other foods in the United States, as in the European Union.

The Canadian Food Inspection Agency may randomly inspect any food product to ensure that minimum requirements (composition, labeling, standard containers, and health standards) are met. Noncompliant product is detained until it meets regulatory requirements, or if imported, may be ordered out of the country.

Very few developing countries have the capacity (or technical infrastructure such as laboratories) to undertake the systematic testing of imported food and therefore the enforcement of food-related requirements is nearly non-existent in almost all developing countries. Given the limited capacity of developing countries to develop their own food standards, greater emphasis is being put on adopting Codex standards. In the case of Cambodia, a recommendation has been made to the government that Codex standards be adopted universally.

Enforcement of food standards relating to imported food is generally weak in developing countries, reflecting their limited inspection and testing capacity.

THE SITUATION IN EGYPT

Standards Development

The development of health standards related to food is the responsibility of MoHP. It has specialist food safety staff and laboratory capacity. The ministry actively participates in a range of Codex meetings.

MoHP has an extensive committee structure of 18 technical committees that supports the development of standards. Representatives on these committees include producers and academic institutions. The technical committees consider the dietary patterns of the Egyptian population when developing standards. When the technical committee finishes its work, the standard is passed to a higher committee for endorsement. The Supreme Committee of Food Safety, chaired by the Minister for MoHP, gives final approval. When health standards are finalized, they are forwarded to EOS for formal publication. EOS currently publishes approximately 260 food standards.

Many food-related standards align with Codex standards, and most will align with Codex standards by the end of 2004.

All food standards apply equally to domestically produced food and to imports.

Standards Enforcement

Standards enforcement for imported foods involves officers under the administrative responsibility of GOEIC inspecting and if necessary testing according to MoHOP requirements. When Customs passes an import permit to the GOEIC representative at an entry port, a committee of seven will be formed. Membership on this committee depends on the nature of the product and the expertise required. All consignments are inspected and tested. The testing regime for foods was the responsibility of MoHP until 2003 but is now the responsibility of GOEIC.

Standards enforcement for domestically produced foods is delegated to local government, and domestic food inspection is generally acknowledged to be inadequate.

Although enforcement has not been examined in detail in this study, there is clear evidence that the enforcement of food standards for local product is not as strict as that for imported food. Many retail outlets in particular lack the necessary infrastructure, such as refrigeration, that would be expected for imported products.

Enforcement of standards and testing of imported food is not uncommon in Egypt. Egypt engages in a far higher level of inspection and testing than other developing countries, but whether the levels of inspection and testing are risk based is open to question.

The consistency of application of SPS-related measures such as risk analysis (directing risk analysis efforts to the areas of highest risk) and equivalence (acceptance of other countries' certification and testing arrangements) is an issue that Egypt will need to address.

A COMPARISON OF REQUIREMENTS RELATING TO IMPORTED PEANUTS

Australian Requirements

Peanuts are a product for which legitimate health concerns may exist. Australia lists peanuts as a risk-categorized food—the highest risk category—because of potential aflatoxin contamination. Aflatoxin contamination is correctly identified as a high risk to humans. Shipments of peanuts to be tested for aflatoxin are held until laboratory analysis is complete.

Where imported peanuts are accompanied by government-to-government certification recognized by the AQIS Imported Food Inspection Scheme and the food is referred for an audit inspection, all tests applicable to that food in the risk list must be applied. Audit inspection does not involve inspection of every consignment; rather, it is a check on the accuracy of the certification provided.

Peanuts are also listed under the random, or low-risk, category for salmonella, pesticides, and cadmium. Five percent of shipments are inspected and tested for these risks. If aflatoxin inspection is also involved, shipments are held until laboratory results are available. However, if aflatoxin testing is not required, the product may be released into

commerce on the basis that if a problem is identified a recall will be undertaken by the importer

Egyptian Requirements

In Annex No. 1 of Prime Ministerial Decree 1186/2003 the following are listed for laboratory analysis:

- Aflatoxin
- General provisions (radiation)
- Moisture
- Oil
- Number and rank of yields
- Broken seeds
- Crust peeled
- Foreign matter
- Mycotoxins.

Egypt therefore applies much more effort to inspecting imported peanuts than Australia does. The question that must be asked is “How essential are some of the tests undertaken in relation to human health?” An additional question in the context of consistency of application of inspection and control procedures is, “How does the extent of testing of imported peanuts compare to testing of domestically produced peanuts?”

Some of the tests that are applied to imported peanuts are meant to protect consumers from fraud—for example buying peanuts labeled top grade when in fact the nuts are of a lower grade. This is not an SPS issue but a TBT issue; consistency in application of TBT measures—as well as SPS measures—to domestically produced and imported product should also be maintained.

Export

EXPORT INSPECTION IN OTHER COUNTRIES

In Australia, AQIS is the only agency that inspects and certifies food and agricultural products for export. Depending on the product and the requirements of the importing country, inspectors may work from a plant—for example, a slaughtering establishment has inspectors based at the plant. Inspection staff may not necessarily be based at a general food processing plant or inspect product before export. However, this assumes there are no importing government requirements and that the plant has an operational and audited food safety plan.

In the early 1980s, AQIS maintained a group of processed-foods inspectors. However, because it is not possible to “inspect hygiene into food,” and rather than the government attempting to assume responsibility for this, the manufacturer of the food should accept full responsibility for the safety (and quality) of the food it produces.

LABORATORY AND SPECIALIST SCIENTISTS' SUPPORT

Most developing countries have a limited and usually focused capacity to inspect and certify exports. The focus is invariably on the export commodities of most value to the country. In the Pacific region, capacity, including technical capacity, generally relates to tropical fruits, with specially built equipment such as high-heat treatment chambers relatively common to satisfy importing country requirements relating to the fruit fly. Some countries, such as India, have a well-developed export inspection service, while many other developing countries rely on staff engaged on import quarantine activities being cross-trained so they can perform export inspection and certification activities.

Papua New Guinea has an unusual model for export inspection in that its service is a self-funding statutory authority. The cost of inspection and certification services is recovered from users.

In some developed countries, either exporting companies or certified third parties are used to perform export inspection. The extent to which this approach can be used is limited by importing country requirements, because they may specify that only government-employed inspectors may be used. Whether government or private sector certifiers are used, the government of the exporting country must be prepared to accept responsibility for the accuracy and integrity of the certificate.

QUALITY INSPECTION

Quality is not an SPS issue, and government involvement in quality generally impedes exports. In the 1980s AQIS inspected the quality of fruit for export. However, its involvement was largely ineffectual, because the private sector invariably found ways of working around the requirements in place. In some countries, consumers expect and can pay for high-quality products, such as fruit and vegetables. However, there are also some export markets that accept poor-quality product.

These comments may not apply to a market that may not be as mature as those in developed countries. But in all countries, a single exporter can potentially cause damage to the wider market for a given product.

Virtually all developed countries leave quality issues to the commercial sector unless there is a specific government-to-government requirement. They can take this approach because they have relatively mature private sectors that understand the wider damage that can be done to an industry by a rogue trader exporting poor-quality produce. Large and small exporters in developed countries carefully guard their reputation by consistently meeting quality standards.

Developing countries sometimes have arrangements for quality inspection by specific produce boards. A typical example would be a statutory authority overseeing the production and export of cocoa. Frequently, produce to be exported is consolidated from a

large number of growers and therefore maintaining quality (or sanitary or residue) standards can be difficult.

The more productive approach for all governments is to provide the tools for the upgrading of skills in the private sector so that exporters can assume responsibility for the product they are seeking to make a profit from, rather than trying to regulate quality into goods for export.

In Egypt, as in most countries, export standards are determined by the requirements of the importing country. However, Egypt does maintain a range of standards, some quality-related, in addition to the requirements of the importing country. Export inspection and certification at times involve MoALR and its specialist expertise – for example a veterinary or plant scientist. In addition, GOEIC becomes involved when issues of quality are considered relevant.

Egypt under the SPS Agreement can impose whatever export standards it wishes. However, in imposing substantial export standards, it is effectively penalizing its exports through the over-involvement of government in the export process. When time is critical – such as for perishable commodities – unjustified export inspection activity by government is not in the interests of export facilitation.

5. SPS Institutional Development Issues in Egypt

Organization of Ministry of Agriculture and Land Reclamation

A common issue for many developing countries is that the Agriculture ministry, in particular, is organized along traditional (pre-WTO/SPS) lines. The effect of this is that the organization does not have a clear focus on SPS issues and market access generally. Egypt's agricultural sector is a very important contributor to the domestic economy, and it has the capacity to play a more significant role in exports if organizational arrangements are improved.

Undertaking a review of how all regulations address SPS issues and market access will best be done using a team consisting of

- MoALR officers from areas with significant SPS and market access involvement (including a senior policy officer),
- A MoFTI trade specialist, and
- An external specialist with skills in appropriate structural arrangements for ministries of Agriculture regarding the SPS Agreement and market access.

Arrangements for Incoming and Outgoing SPS Notification Flow

With no outgoing notifications made to the SPS Secretariat to date, Egypt clearly has a problem in meeting its WTO obligations. Responsibilities for the flow of advice for incoming notifications also are not well defined.

During the second phase of this assignment, three flow charts were developed with a view to endorsement as part of an action plan considered at the workshop held on December 8. These charts (Figures 5-1 through 5-3) attempt to document the flow of information for incoming and outgoing SPS notifications and indicate a more structured approach to handling notifications.

Figure 5-1
Flow of Information for Incoming SPS Notifications

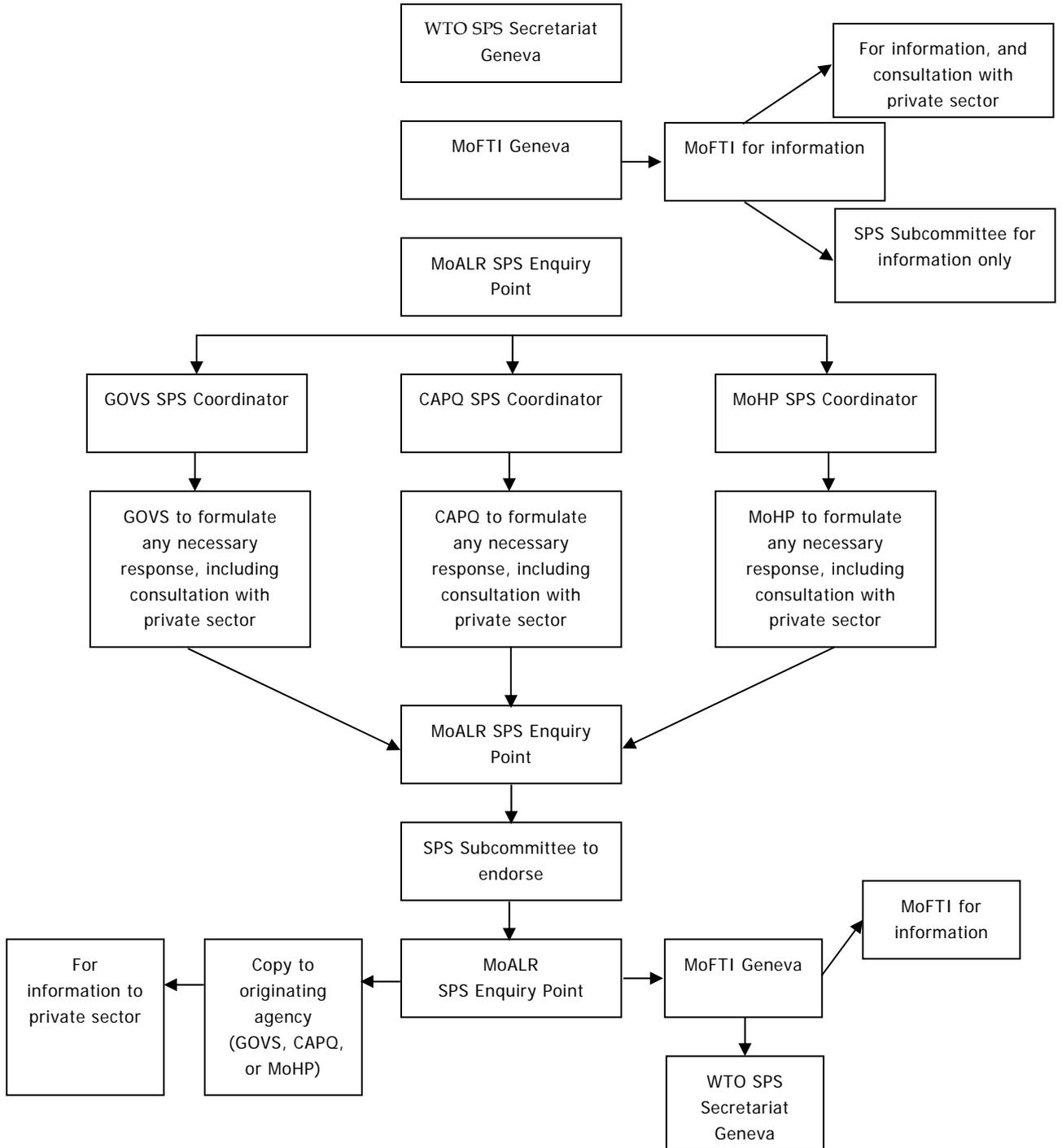


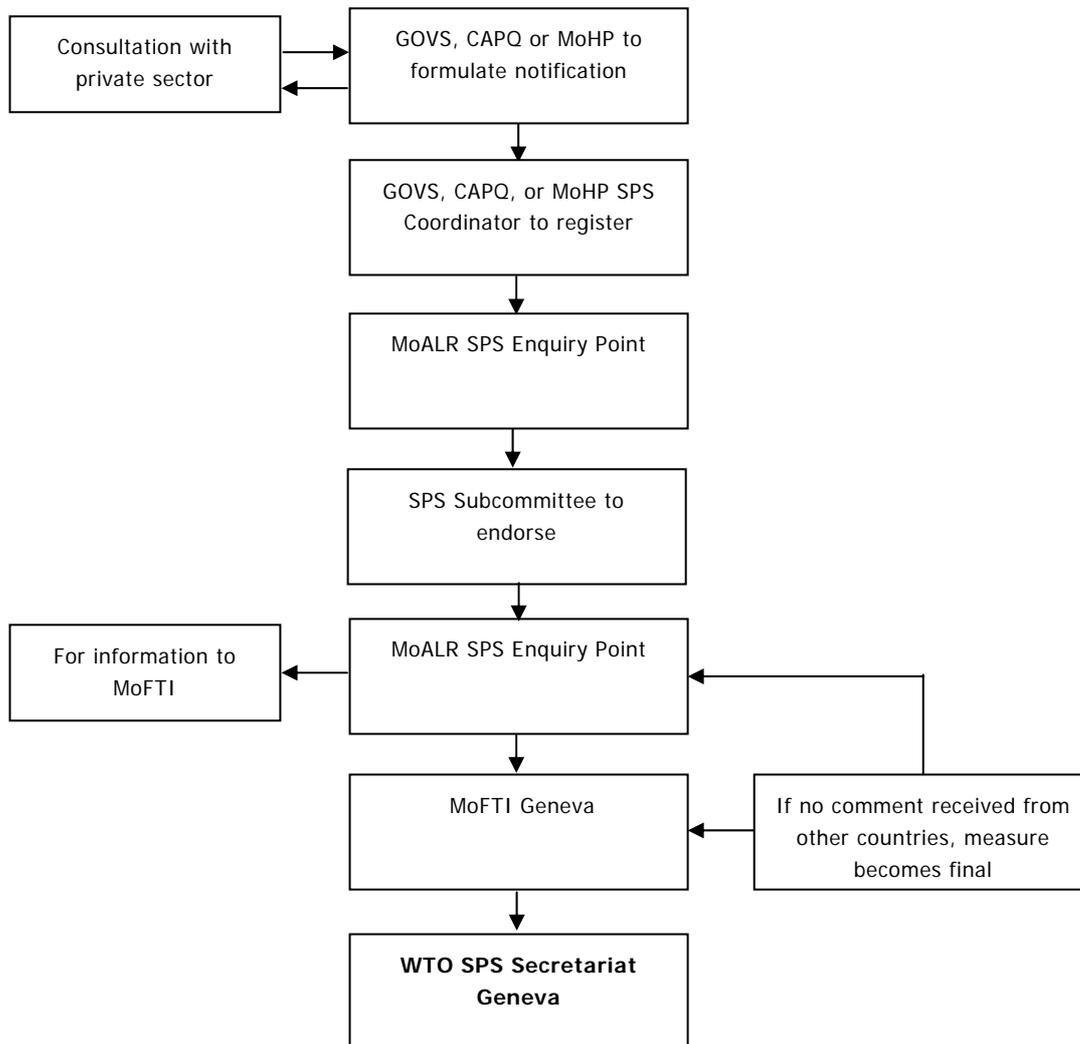
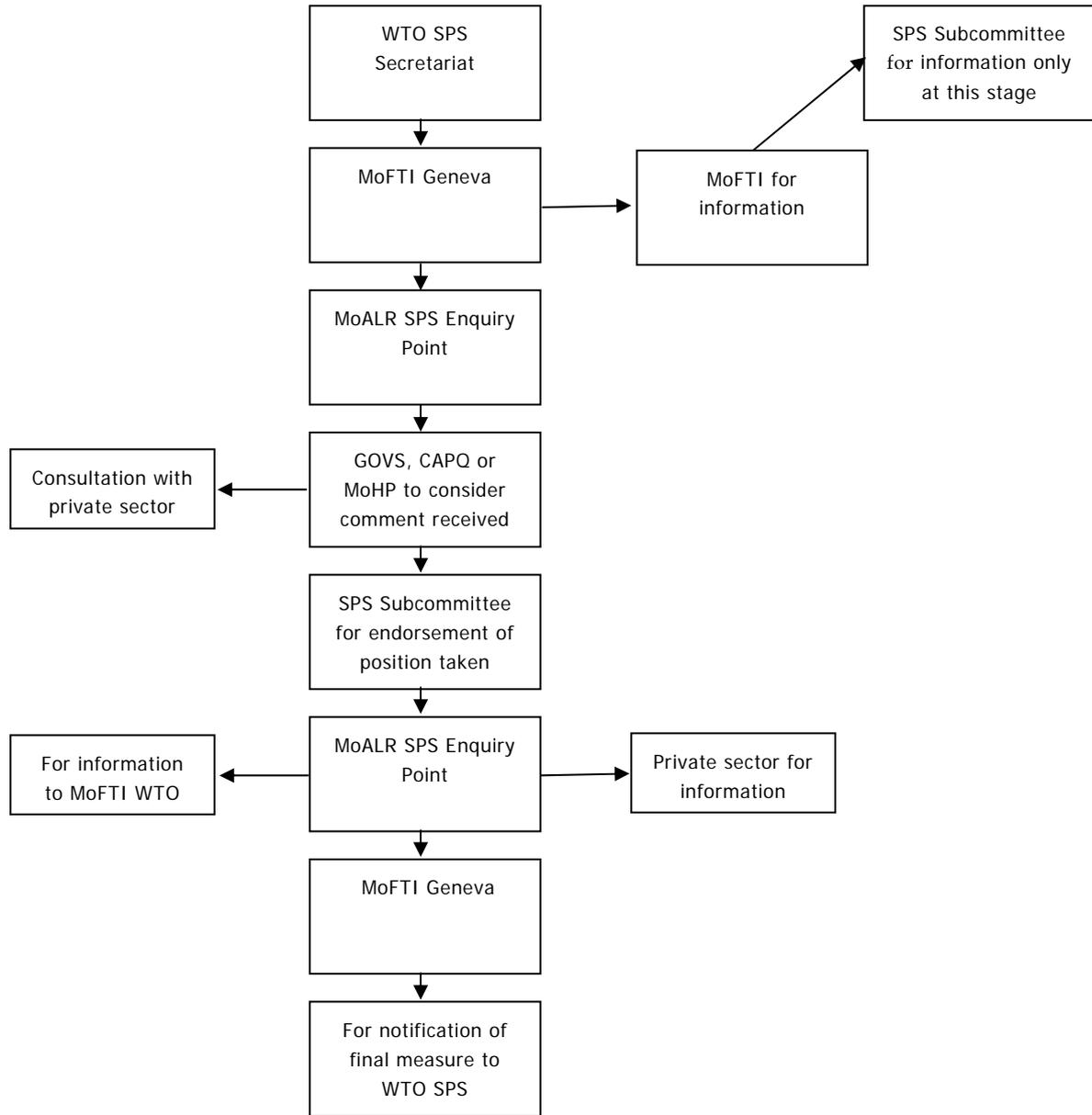
Figure 5-2*Flow of Information for Outgoing (Non-emergency) SPS Notifications*

Figure 5-3*Flow of Information for Comment Received on Outgoing SPS Notifications*

Transparency of SPS Measures Imposed by Egypt

References to SPS measures in this section include the SPS measure itself as well as related inspection, testing, and laboratory requirements.

The transparency situation has been commented upon earlier in this report. In terms of easily available information about Egypt's technical measures, only the measures relating to plant quarantine are consolidated and available in English.

Full compliance with transparency provisions will require a staged approach including the following steps:

- Consolidation of all technical measures into three parts— animal, plant, and food
- Incorporation of all new SPS measures into consolidated volumes and simultaneously available in Arabic and (preferably) English
- Translation of all post-1995 measures into one of WTO's official languages (English, French, or Spanish), but preferably English
- Translation of all SPS measures into English;
- Availability of all SPS measures on MoALR or MoHP website (as appropriate)
- Regular updating of websites.

Most of these steps can be carried out by Egyptian resources, although technical assistance may be necessary to support the very substantial translation effort required and the development of a functional website that provides the necessary detail.

An outline of a suggested one-day training course is in Appendix A. Appendix B makes some suggestions on how to maintain a register.

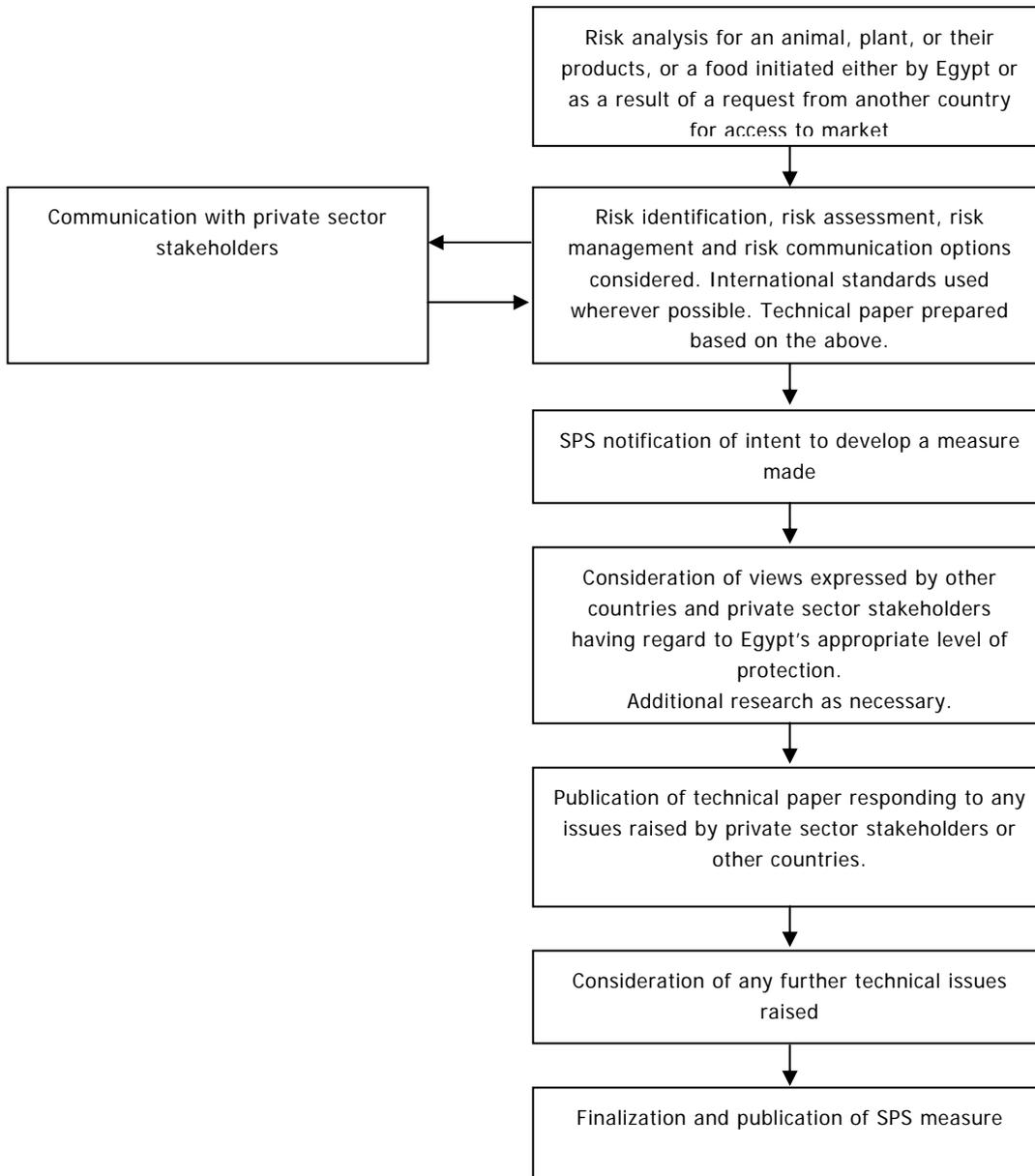
Risk Analysis

Obtaining a definitive view of Egyptian risk analysis processes for animal health, plant health, and food is difficult. A major step forward would be the development (and publication in English) of the risk analysis processes that lead to the development and implementation of SPS measures. Figure 5-4 provides a starting point.

Consistency of Measures

Issues relating to consistency have been raised already in this report in the context of control over the import of regulated goods compared to the control of unregulated goods. The option of raising border protection measures to control the entry of unregulated goods—goods that may present a risk to animal and plant health status of Egypt—is likely to be very difficult to implement effectively as well as very costly. The long land borders shared with a range of countries and traditional movements over centuries of people and goods across these borders pose a formidable challenge.

Figure 5-4
An Indicative Risk Analysis Process



Bilateral pest, disease, and movement controls with adjoining countries will lower the risk of an exotic pest or disease incursion into Egypt. Strengthening of border controls on incoming land, sea, and air passengers will also help.

However, because of the extent of existing SPS measures, Egypt is likely to face other countries' challenges to the consistency of its overall approach to maintaining freedom from unwanted pests or diseases. Challenges from other countries can best be avoided by minimizing the number of products that are subject to SPS measures more stringent than internationally accepted. All countries have products that may be subject to more stringent SPS measures than internationally accepted, usually due to domestic politics. However, minimizing the extent of such products is an admirable aim for all countries, including Egypt.

If Egypt imposes SPS measures that are more stringent than internationally accepted only when absolutely necessary, it will receive substantive benefits. Specialist scientific capacity and scarce financial and human resources will be able to focus on export market access issues and the areas of highest sanitary and phytosanitary risk to Egypt.

IT Infrastructure and Use of E-mail, Websites, and the Internet

It has not been the role of this study to conduct a detailed study of IT needs in this area. The specific needs relate to the institutional outcomes of recommendations made by the study. However, there are clearly areas where a strengthened IT capacity is important. These include

- An IT platform to manage communication flows related to SPS notification processes
- Website capacity in MoALR and MoHP to make SPS measures available in electronic form
- Website capacity for publication of transparency-related documents such as risk analysis processes in MoALR and MoHP.

Moving to strengthen IT capacity in a structured manner will be critical. For example, for SPS notifications, ensuring that a paper system operates as it should is a prerequisite to implementing IT systems.

This study has identified customized software in use in Jamaica for managing the SPS notification process. The software was developed as part of USAID development assistance, and second-generation software is now in use. However, the software has been specifically tailored to Jamaica's needs and therefore cannot be installed in Egypt without modification.

Related to this is the availability on the WTO website of training material focusing on notification and transparency that anyone with Internet access can use. Also available on the WTO website is an e-mail alert system that forwards by e-mail all new notifications received on a weekly basis.

The Internet is proving a useful tool for improving market access because it facilitates building on the endeavors of other countries. E-mail also has become more widespread in developing countries and it offers users the ability to secure specific scientific advice more easily than before.

This study has reviewed the website capacity of a range of developing countries and found good progress in meeting international obligations of the SPS Agreement. Some developing countries have already commenced the process of placing SPS entry conditions on their websites. This trend will accelerate as more developing countries recognize the ease and benefits of electronic publication and maintenance of technical databases.

Needs Assessment for Market Access

This study has covered a range of fundamental issues related to Egypt and the SPS Agreement. Therefore study outcomes are likely to have a higher degree of sustainability than if effort had been spent on issues where no sound foundation existed.

Many institutional strengthening activities related to the SPS Agreement can take place if the recommended action plan is implemented. Training is an obvious example—English language skills, the SPS Agreement, and topics such as risk analysis. However, it is critical that before embarking on such activities Egypt considers their real purpose. To that end, an assessment of needs relating to market access is strongly recommended. Such an assessment would encompass

- Action planning based on a detailed country needs assessment of current and prospective exports that may be adversely affected by SPS measures. Elements could include
 - Using available practical methodology, appropriately adapted to Egypt’s situation to assess and prioritize SPS capacity building needs related to existing and prospective exports;
 - Drawing on completed and proposed studies relevant to market access;
 - Development of model biosecurity and export control legislation;
 - Advice on restructuring the ministries of agriculture and fisheries to meet the new order that the SPS Agreement has imposed on Egypt;
- Developing stakeholder involvement in the market access process, including
 - Advice on particular models that are likely to lead to sustainable positive results
 - Mechanisms that encourage stakeholder involvement in a well-ordered market access-planning process
- Market access strategy formulation including
 - Building on the work of other countries
 - Maximizing the contribution that IT and Internet access can provide to usable information to support market access initiatives
 - Developing an SPS-related technical market access strategy that is driven by export market opportunities
 - Maximizing the value of technical market access inputs
 - Advice on strategic mentoring (including specific scientific capacity).
- The development of strategic mechanisms designed to improve coordination of donor assistance in the SPS area.

6. A Structured Approach to Strengthening Transparency and Notification Processes

Advising of ways in which Egypt's approach to transparency and its obligations as far as notifications processes are concerned has been a key aspect of this study. To this end an action plan was developed before the November-December 2004 visit to allow consideration and comment in advance of a planned workshop. The action plan was discussed in detail at a workshop convened on December 8, 2004, with a view to presentation to the Minister for Foreign Trade and Industry. The Minister would then discuss the action plan with other relevant ministers. The workshop program is in Appendix C. The final action plan endorsed at the December 8 workshop is shown in Table 6-1.

Table 6-1
Action Plan for Building Sustainable SPS Compliance

SPS Requirement	Desired Result	Steps to Reach Desired Result	GoE Action or Development Assistance Needs	Time Frame
Enquiry point and notifications authority operating to SPS Requirements	Fully functional IT office to submit notifications, answer enquires from other WTO members, and provide awareness about other WTO members' SPS measures	<p>The International Relations Department, MOALR is the notification authority and inquiry point for Egypt.</p> <p>1. As Notification Authority:</p> <p>a. For notification from other WTO member countries</p> <ul style="list-style-type: none"> • Receive all the WTO members' notifications from the WTO SPS Secretariat in Geneva. • Classify them on the export basis interest according to the product and then according to the country • Disseminate them through e-mail to the interested parties (private sector, industry federation, GOEIC, EOS, Plant Quarantine, Animal Quarantine, Health Quarantine, Research Centers, and commercial offices in the specified country, and any person who has notified the CD/WTO of interest in SPS notifications • Receive comments from the interested parties. • Discuss these comments in the SPS Subcommittee and formulate a response to the country notifying the measure if that is necessary. • Inform MoFTI Geneva office with comments that should be passed to country making notification and any issues that should be raised in the SPS Committee in Geneva. • Receive feedback from MoFTI Geneva office and present it in the SPS sub-committee <p>b) For Egyptian Notification:</p> <ul style="list-style-type: none"> • All regulatory entities involved in SPS activities to inform the international relations department at MOALR of all new technical measures, regulations, or decrees. • Discuss these technical measures, decrees, and regulations in the SPS Subcommittee to notify SPS Secretariat in Geneva (through MoFTI Geneva). <p>2. Inquiry Point</p> <ul style="list-style-type: none"> • Answer all enquiries from other countries about existing SPS measures in Egypt. When a variation to an existing measure is proposed, enquiry and response should be discussed in the SPS Subcommittee. (It will not be practical for all responses, including routine ones, to be discussed in SPS Subcommittee; the committee is involved only if a change in policy or technical measure is suggested.) • Establish database with all questions raised from other countries and keep track of response from agency handling. 	<ol style="list-style-type: none"> 1. Issue prime minister's decree requiring all (non-emergency) SPS material communicated to Geneva to be approved by the SPS Subcommittee and notified to the WTO by the International Relations Department at MOALR. Copies of emergency measures must be provided to SPS Subcommittee. 2. Draft a (paper) workflow process for inquiries and SPS committee decisions. 3. Establish SPS coordinator positions in GOVS, CAPQ, and MoHP to liaise with SPS enquiry point in MoALR (International Relations Department) 4. Coordinate with Ministry of Communications to establish the IT system, equipment and e-mail groups, and provide necessary training. 5. Training provided to the International Relations Department on the use of WTO notification forms and registration, tracking, and clearance processes. 6. IT equipment and software purchased to facilitate electronic registration system and e-mail transfer between agencies. 7. English language training provided to all staff involved in WTO SPS measures and processes 	To be completed in conjunction with final report, following November-December meetings

SPS Requirement	Desired Result	Steps to Reach Desired Result	GoE Action or Development Assistance Needs	Time Frame
T R A N S P A R E N C Y				
	Egypt's SPS measures and related inspection and testing requirements available in English on websites or relevant Government agencies.	<ol style="list-style-type: none"> 1. Develop a model electronic database for agencies that develop SPS measures. It may be necessary to develop separate models for animal health, plant protection, and food measures. 2. Translate measures not yet translated into English 3. Develop an electronic network (using e-mail) for agencies that develop SPS measures and others that implement these measures (ex. GOEIC, inspection entities in Ports, private sector) 4. Specify staff under each agency to maintain, back up, and update database 5. Consolidate measures by agencies that develop SPS measures into an electronic database and publish in English. 6. Develop website capacity for agencies involved in SPS measure development. 	<ol style="list-style-type: none"> 1. Coordinate with Ministry of Communications to establish the electronic system, web site and the e-mail-based network. 2. Train agency staff in database development and operation 3. Develop IT equipment, software and website 	
R I S K A N A L Y S I S				
	A transparent risk analysis process that is publicly available on the Internet	<ol style="list-style-type: none"> 1. Review existing measures that are not identical to a standard published by OIE, Codex, or organizations related to the IPPC to ensure they are based on risk analysis of Egypt's appropriate level of protection 2. Develop a document that outlines Egypt's risk analysis process 3. Publish risk analysis document in English on agency website 	<ol style="list-style-type: none"> 1. Provide experts to participate in reviewing all Egyptian SPS measures that are not identical to international standards with a view to only a small number of measures being different from international standards. 2. Develop new legislation or decrees as necessary 3. Assist in development of risk analysis process 	

7. Recommendations

This study presents the following recommendations:

1. That Egypt adopt the action plan proposed and commence operation of an SPS notification authority and enquiry point;
2. That appropriate training of personnel involved in the SPS notification and enquiry point processes be undertaken as soon as possible after ministers agree on the action plan;
3. That all technical measures developed be consolidated and made available in English. (New measures and measures developed after 1995 should be given priority in the process);
4. That Egypt move towards publishing all SPS technical measures in English on the website of the appropriate ministry;
5. That Egypt pursue development assistance directed towards strengthening the IT, e-mail, and website capability of ministries with responsibilities or involvement in Egypt's obligations under the SPS Agreement;
6. That a risk analysis flow chart be developed by Egypt and published on the websites of appropriate ministries;
7. That Egypt review its approach to risk analysis to ensure that its efforts are directed to the areas of highest risk and that the great majority of measures be consistent with Egypt's obligations under the SPS Agreement.

Appendix A. Outline of Training Course on Notification and Enquiry Point Functions

This was the first course to include officers in MoFTI, MoALR, and MoHP who will be directly involved in the handling of notification and enquiries. The second course will include SPS Subcommittee members. We suggest that subsequent courses be provided separately for a wider group of officers of MoFTI, MoALR, and MoHP.

- 1000-1200 Egypt's SPS Agreement obligations as they relate to notification and enquiry point processes
- 1215-1345 How notification and enquiry point flows will work in Egypt as endorsed by Ministers;
 - Outgoing notifications;
 - Incoming notifications (no comment required);
 - Incoming notifications and enquiries where comment or a response is required.
- 1345-1415 Lunch
- The WTO forms that will be used in the process of notification;
- 1415-1500 The duties of individual officers involved in the notification and enquiry point processes in MoFTI, MoALR and MoHP;
- 1500-1600 How the registration and tracking process will work;
 - MoALR enquiry point office;
 - SPS Coordinators in GOVS, CAPQ and MoHP;
 - MoFTI.
- 1600-1700 Practical exercises for the group in filling out a plant, animal, and food notification form and the process involved in sending. It would be possible to develop an actual notification with prior consultation with GOVS, CAPQ, or MoHP (e.g., a notification related to avian influenza outbreak in Asia that could actually be processed through the system).

Papers to be provided prior to training course include:

- Relevant clauses of SPS Agreement;
- Transparency manual (covering transparency, notification and enquiry point functions) developed by the SPS Secretariat;
- Sources of additional training material;

During the training, a document should be prepared that lists all relevant names and their function and position in MoFTI, MoALR and MoHP.

After a period of time during which notifications have been made and enquiries answered, the first group that was trained should reconvene to discuss problems and possible improvements to arrangements. This is subject to ministerial approval of any change.

Appendix C. Program of Workshop on WTO SPS Agreement

8 December 2004, Grand Hyatt Hotel

Aim:

For the workshop to adopt an action plan designed to bring Egypt into WTO SPS compliance, and to strengthen Egypt's ability to comment on measures other countries may seek to implement that are not in Egypt's interest.

The action plan will be presented to the Minister for Foreign Trade and Industry who will then discuss with relevant Ministers. The documents to be made available to participants as part of workshop documentation are the draft action plan and the draft flow charts relating to notifications.

0930	Registration and coffee
1000	Course welcome and introduction of leader and participants
	The importance of strengthening enquiry point, transparency and risk analysis arrangements from Egypt's perspective
1045	How Enquiry Point / notification arrangements can be strengthened
1115	Coffee break
1130	Flow chart incoming notifications, no comment from Egypt
	Flow chart incoming notifications, comment from Egypt
	Flow chart outgoing notifications
1300	Organizational strengthening of Enquiry Point and notification processes
1345	Strengthening transparency
	Discussion and questions
1430	Lunch
1530	Meeting WTO SPS risk analysis obligation
1615	Adoption of action plan
1700	Finish of workshop

Appendix D. Scope of Work

Short-Term Consultancy in Risk assessment and Science-Based Measures in the WTO Agreement on Sanitary and Phytosanitary Agreement

June 2004

Background – The Egypt ATR Project

The Assistance for Trade Reform project is an USAID-funded project implemented by the Nathan -MSI group. The project's objectives are to:

1. Establish a World Trade Organization (WTO) unit within the Ministry of Foreign Trade (MOFT) and to form the necessary intra- and inter-ministerial coordinating mechanisms incumbent upon WTO compliance;
2. Continue and finalize the reengineering efforts as contained in the Foreign Trade Sector (FTS) reengineering study and to expand/complete this effort in Commercial Representation Sector (CRS) and General Organization for Export and Import Control (GOEIC) so that their operations facilitate trade liberalization and enhance Egypt's export prospects; and,
3. Facilitate the automation of the above four units with appropriate information technologies.

To meet these objectives, the Nathan-MSI team will undertake the following tasks:

- Task 1: Establish a WTO Unit;
- Task 2: Trade Liberalization and WTO Compliance Policies;
- Task 3: Institutional Development of the Cooperating Divisions Working in Foreign Trade;
- Task 4: Organization of In-Country and Off-Shore Training Activities, Workshops and Seminars; and,
- Task 5: Implementation of Information Technology Plan for Cooperating Divisions and WTO Unit and Procurement of Equipment and Software.

Description of Activities under this Short-Term Consultancy

The Foreign Trade Policies Sector of the Ministry of Foreign Trade is interested in performing a comprehensive review of Egypt's compliance with its obligations under the WTO SPS Agreement. A team of staff from the Ministry has been formed and ATR is assisting that team in performing the evaluation.

From our initial work with the team, it is evident that the highly technical nature of the issues under the SPS Agreement makes it necessary to hire a short-term consultant with experience in this area to assist the team. For example, border controls based on SPS conditions that threaten consumers or domestic crops or livestock must be based on internationally recognized scientific principles supported by scientific evidence. Assistance is needed to understand how countries are able to establish that their border control meet this test.

As another example, it is also evident that the team needs a better understanding of the issues of systematic risk assessment and the mechanisms by which countries strike a balance between the costs of trade restrictions and the benefits from SPS requirements.

The primary purpose of this consultancy is twofold:

1. Assist the assessment team and our counterparts in FTPS in evaluating whether the process by which SPS measures are established uses appropriate risk assessment techniques and bases decisions on scientific evidence. Potential improvements to the system and harmonization with international norms will be outlined, if necessary.
2. If current SPS standards in Egypt are not based on science and assessment of risk, the short-term consultancy will serve to introduce the principles to MOFTI staff and their counterparts in other ministries or agencies involved in setting the standards.

The main expected tasks to be completed under this short-term assignment are:

- Prepare a paper on risk assessment in SPS matters as applicable to Egypt (Part I);
- Conduct an evaluation of the system by which Egypt's SPS measures are formulated and recommend science-supported procedures to enhance this process (Part II).
- Review Prime Ministerial Decree 1186/2003 and Executive Regulations (MOFT Decree 515/2003) on inspection of agricultural and food products and summarize the main compatibility with and deviation from norms in other countries (Part II).
- Advise MOFT and involved agencies in addressing country queries that relate to science-based support of Egyptian SPS measures (Part II).
- Advise MOFT on mechanisms adopted by other countries on how to integrate domestic food safety measures with measures conducted at the border to enhance national treatment compliance (Part I).

The consultancy will be divided into two phases to give the assessment team and counterparts in the Ministry of Foreign Trade and Industry time to incorporate the

consultant's work on risk assessment and experiences of other countries into the evaluation of compliance.

EXPECTED RESULTS

The objective of this activity is to assess Egypt's compliance with its obligations under the SPS Agreement with respect to measures restricting imports for the purpose of protecting human, animal, and plant health. This consultancy will contribute to this by exposing competent Egyptian authorities to best practices implemented in different countries in addressing SPS and food inspection requirements.

DELIVERABLES

The consultant will assist in the preparation of the report on the assessment of Egypt's compliance with the SPS by providing the team with:

- a framework and guidance for conducting an SPS Agreement compliance assessment (Part I);
- A report that addresses the following areas will be prepared and submitted to FTPS and the assessment team:
 - Suggesting a framework for incorporating measures of risk assessment and introducing acceptable level of protection principles in Egypt's food inspection process (Part I).
 - proposing policies to enhance the transparency of the current system for establishing SPS requirements and to strengthen public awareness of related issues (Part II).
 - cataloguing the main features of selected countries' systems addressing risk assessment and acceptable levels of protection principles (Part I).
- A 5-day SPS training course for GOEIC, FTPS, CD-WTO, and MOA staff (Part I).
- A seminar given to FTPS senior management reporting on the main findings of the short-term assignment (Part II).

QUALIFICATIONS

We propose that Mr. John F. Landos undertake this assignment. Mr. Landos is a standards expert with over 30 years of experience in the field. His key skills have developed from a long experience as a senior policy advisor to the government of Australia in the area of quarantine and food inspection. As Director of Quarantine Division, Australian Quarantine and Inspection Service (AQIS), Mr. Landos was responsible for all strategic and day-to-day policy advice to government, including export health certification for horticultural and grain products, as well as live animals. During this period (1990-96), Mr. Landos was closely involved in developments related to the WTO SPS Agreement and is familiar with the tools necessary for a country to meet its obligations. Mr. Landos established Quarantine and Inspection Resources, Pty, Ltd in 1996, a consultancy business, which he stills heads

and which completed over 60 assignments related to quarantine, market access, food safety, and export certification.

LEVEL OF EFFORT

Mr. Landos' proposed level of effort is 38 days, including travel and report writing. The activity will be split into two parts: The first part (4 weeks) will take place in starting August 15th through September 9th, 2004. The second part of the activity will start in the week starting the 21st of November and end December 9th, 2004.

Appendix E. Agreement on the Application of Sanitary and Phytosanitary Measures

Members,

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

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

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

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

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

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

Recognizing that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or

phytosanitary measures in their own territories, and desiring to assist them in their endeavours in this regard;

Desiring therefore to elaborate rules for the application of the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b)²;

Hereby agree as follows:

Article 1

General Provisions

1. This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.
2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.
3. The annexes are an integral part of this Agreement.
4. Nothing in this Agreement shall affect the rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

Article 2

Basic Rights and Obligations

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

² In this Agreement, reference to Article XX(b) includes also the chapeau of that Article.

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

Article 3
Harmonization

1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.

2. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal, or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.

3. Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5.³ Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protection different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.

4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.

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

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

Article 4
Equivalence

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

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

1. Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal, or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.
2. In the assessment of risks, Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.
3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.
4. Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects.
5. With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade.

Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.

6. Without prejudice to paragraph 2 of Article 3, when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.⁴

7. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.

8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.

Article 6

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

1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area - whether all of a country, part of a country, or all or parts of several countries - from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, *inter alia*, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.

⁴ For purposes of paragraph 6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.

3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing, and other relevant procedures.

Article 7

Transparency

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

Article 8

Control, Inspection, and Approval Procedures

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

Article 9

Technical Assistance

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

2. Where substantial investments are required in order for an exporting developing country Member to fulfill the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

*Article 10**Special and Differential Treatment*

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

*Article 11**Consultations and Dispute Settlement*

1. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.
2. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.
3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

*Article 12**Administration*

1. A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.

2. The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. The Committee shall encourage the use of international standards, guidelines, or recommendations by all Members and, in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs.

3. The Committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.

4. The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines, or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or phytosanitary measures which the Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason therefore, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.

5. In order to avoid unnecessary duplication, the Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.

6. The Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 4.

7. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the

need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation.

Article 13
Implementation

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

Article 14
Final Provisions

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

ANNEX A
DEFINITIONS⁵

1. *Sanitary or phytosanitary measure* - Any measure applied:
 - (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;

⁵ For the purpose of these definitions, "animal" includes fish and wild fauna; "plant" includes forests and wild flora; "pests" include weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.

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

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

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

3. *International standards, guidelines, and recommendations*

- (a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;
- (b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;
- (c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and
- (d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.

4. *Risk assessment* - The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or

phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

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

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

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

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

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

ANNEX B

TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

Publication of regulations

1. Members shall ensure that all sanitary and phytosanitary regulations⁶ which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.

2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

Enquiry points

⁶ Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:

- (a) any sanitary or phytosanitary regulations adopted or proposed within its territory;
- (b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
- (c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
- (d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.

4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals⁷ of the Member concerned.

Notification procedures

5. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, Members shall:

- (a) publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;
- (b) notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;

⁷ When "nationals" are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

- (c) provide upon request to other Members copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;
 - (d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.
6. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 of this Annex as it finds necessary, provided that the Member:
- (a) immediately notifies other Members, through the Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);
 - (b) provides, upon request, copies of the regulation to other Members;
 - (c) allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.
7. Notifications to the Secretariat shall be in English, French, or Spanish.
8. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.
9. The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.
10. Members shall designate a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 5, 6, 7 and 8 of this Annex.

General reservations

11. Nothing in this Agreement shall be construed as requiring:
- (a) the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 8 of this Annex; or

- (b) Members to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.

ANNEX C

CONTROL, INSPECTION, AND APPROVAL PROCEDURES⁸

1. Members shall ensure, with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures, that:

- (a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;
- (b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant is informed of the stage of the procedure, with any delay being explained;
- (c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;
- (d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;
- (e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;
- (f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service;

⁸ Control, inspection and approval procedures include, *inter alia*, procedures for sampling, testing and certification.

- (g) the same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;
- (h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and
- (i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

Where an importing Member operates a system for the approval of the use of food additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or phytosanitary measure specifies control at the level of production, the Member in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.

3. Nothing in this Agreement shall prevent Members from carrying out reasonable inspection within their own territories.

Appendix F. Summary of Australian Imported Food Requirements

Risk-categorized (High-Risk) Foods

Food	Analysis
Beef, beef products and food containing beef or beef products as an ingredient	BSE Certification check
Cheese with moisture content >39% and pH >5.	<ul style="list-style-type: none"> • Listeria monocytogenes • Salmonella • E. coli
Chicken meat - cooked (chilled or frozen)	<ul style="list-style-type: none"> • Coagulase positive Staph • E. coli • Listeria monocytogenes • Salmonella
Coconut dried	Salmonella
Crustaceans - cooked (chilled or frozen)	<ul style="list-style-type: none"> • Coagulase positive Staph • Salmonella • SPC
Prawns and Shrimp (cooked)	As for 'Crustaceans' plus Vibrio cholerae
Fish of the following kinds whether whole, filleted or further processed, whether dried or not. <ul style="list-style-type: none"> • All Shark (including Dogfish), • Rexea solandri (Gemfish, Note; sometimes mistakenly referred to as NZ hake), • Billfish (including marlin) • Barramundi • Ling • Orange roughy • Rays 	Mercury
Fish – tuna and mackerel whole, filleted or further processed, whether dried or not	Histamine (as for "all tuna and mackerel" plus Mercury)
Fin Fish – ready to eat processed finfish, other than fully retorted finfish (e.g. canned product)	Listeria monocytogenes
Herbs, spices, and dried vegetables used as seasonings (to improve or enhance flavour)	Ethylene chlorohydrin As for 'All' plus Salmonella

Food	Analysis
Marinara mix (seafood mix) excluding canned product that is commercially heat-treated.	<ul style="list-style-type: none"> • Coagulase positive Staph • E. coli • Salmonella • SPC • Paralytic shellfish poison • Domoic acid
Meat - cooked and processed / manufactured meat (including meat pastes and pate)	<ul style="list-style-type: none"> • E. coli • SPC • Coagulase positive Staph • Listeria monocytogenes • Salmonella
Meat - cooked and processed / manufactured meat (including meat pastes and pate)	<ul style="list-style-type: none"> • E. coli • Coagulase positive Staph • Listeria monocytogenes • Salmonella
Meat - uncooked and processed / manufactured meat. (ready for consumption)	<ul style="list-style-type: none"> • E. coli • Coagulase positive Staph • Listeria monocytogenes • Salmonella
Molluscs (chilled or frozen), other than scallops excluding canned product that is commercially heat treated.	<ul style="list-style-type: none"> • E. coli • SPC • Paralytic shellfish poison • Domoic acid
Molluscs – ready for consumption (chilled or frozen) that have undergone processing other than depuration (cleaning) excluding goods packed in metal cans, glass jars or glass bottles that have been commercially heat treated	As for 'Molluscs' plus Listeria monocytogenes
Nuts – peanuts and pistachios (whether in shell or not, whether raw, blanched, roasted or processed by physical means i.e. crushed, ground)	Aflatoxin
Nuts - Peanut products, pistachio products, and food containing greater than 30 %:peanuts; pistachios; peanut and pistachio mix; peanut products; pistachio products as an ingredient.	Aflatoxin
Pig meat – cooked (chilled or frozen) excluding canned product that is commercially heat-treated. 1	<ul style="list-style-type: none"> • Coagulase positive Staph • E. coli • Salmonella
Poultry pates and poultry livers – cooked (chilled or frozen)	<ul style="list-style-type: none"> • Listeria monocytogenes • Salmonella
Sauces – Peanut, Satay and other peanut sauces	Aflatoxin
Sesame seeds and sesame seed products	Salmonella

Active-Surveillance (Medium-Risk) Foods Requirements

Food	Testing Requirements
Crustaceans (all raw prawns and shrimp)	<ul style="list-style-type: none"> • Mercury and Sulphur dioxide • As for "all," plus Chloramphenicol and Nitrofurans
All egg pulp and egg powder (however packed) including egg white and egg emulsions Albumins, albuminates and other albumin derivatives	Salmonella
Honey	<ul style="list-style-type: none"> • Pesticide screen • Chloramphenicol • Nitrofurans • Streptomycin • Tetracycline • Sulphonamides
All vegetable sprouts (however packed), excluding product that is canned or has undergone an equivalent heat treatment that renders the product commercially sterile	Salmonella
Dried or moisture-reduced dates and Dried or moisture-reduced sultanas Dried figs If fresh figs are referred for inspection, see Random Category Notice for tests to assign	<p>Lead and Pesticide screen</p> <p>Sulphur dioxide and Pesticide screen</p>