



SPS Committee



WTO OMC

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Agriculture and Commodities Division
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SADC Workshop, South Africa



Structure of Session

1. Function and role of the Committee
2. Specific Trade Concerns
3. How to Address SPS-related Trade Problems
4. Recent Issues under Discussion

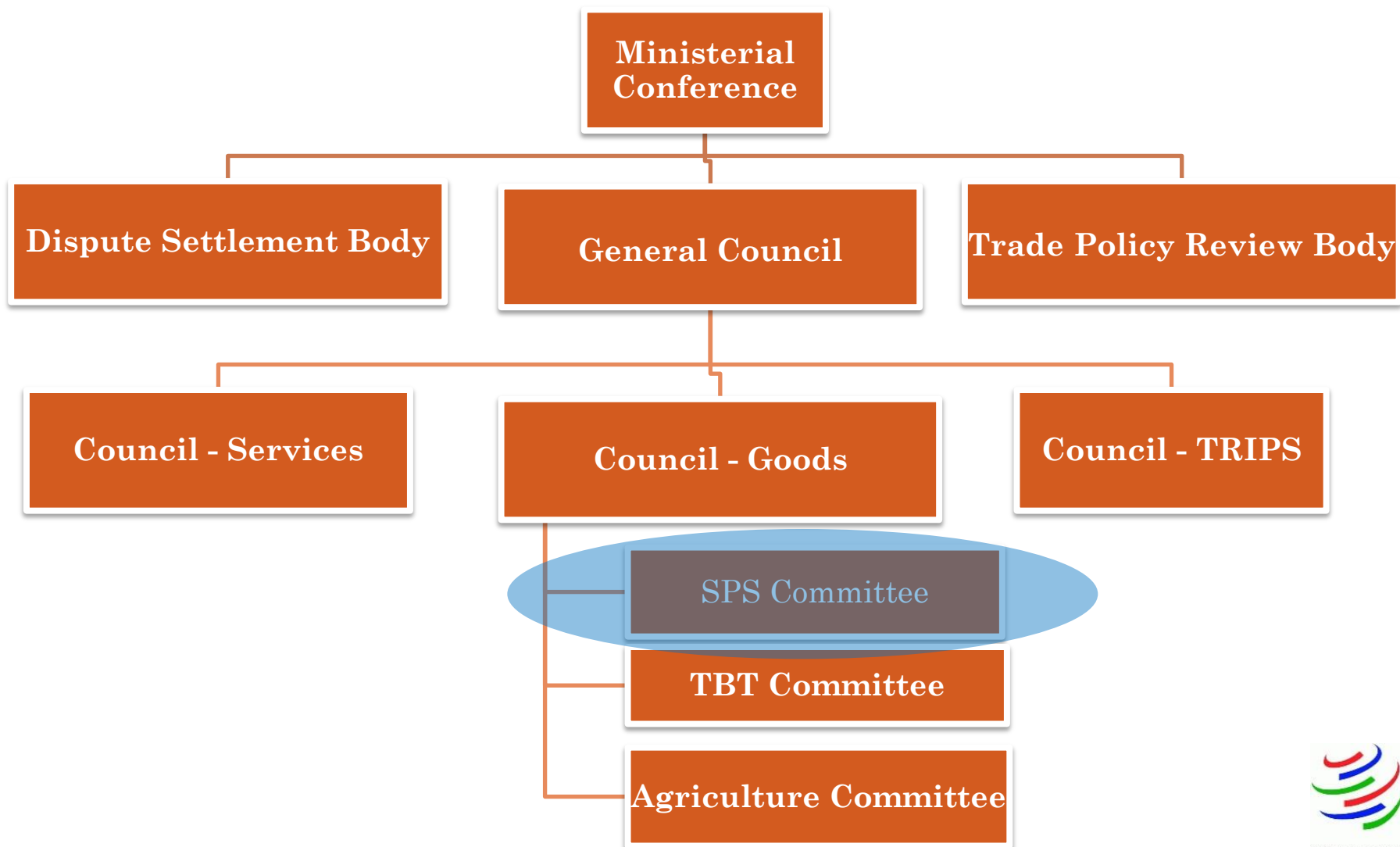


SPS Committee: Function & Role





WTO: The Structure





Chair of the SPS Committee:

Ms. Maria Albarece*
Philippines



**Re-elected in June 2013 SPS Cttee meeting*



The SPS Committee: **What does it do?**

- Implementation of SPS Agreement
- Reviews compliance
- Potential trade impacts
- Co-operation with technical organizations





SPS Committee: **Who is on it?**

- All 159 WTO Members
- Observer governments (acceding members)
- Intergovernmental organizations

4 new WTO Members in 2012:
Montenegro (April), Russia (Aug.),
Samoa (May) and Vanuatu (Aug.)

2 new WTO Members in 2013:
Lao PDR (Feb) and Tajikistan
(March).





Observers in the SPS Committee

- Codex, IPPC and OIE
- FAO, WHO, UNCTAD, World Bank, IMF, ITC, ISO

Ad hoc Observers:

- ACP Group, AU, AITIC, CEN-SAD, COMESA, ECCAS, ECOWAS, EFTA, GSO, IGAD, IICA, OECD, OIRSA, SADC, (Latin American Economic System) SELA, WAEMU

Pending requests:

- Asian Pacific Coconut Community, CABI, CBD, CITES, International Vine and Wine Office (OIV), IGAD



SPS Committee Meetings

- **3 regular meetings per year**
 - ❖ often preceded by informal meetings to discuss specific topics (S&D, Third review, Private Standards, Ad Hoc consultations, etc...)
- **Special meetings/workshops**
 - ❖ for example on TA, transparency-enquiry points, SPS coordination, etc.





SPS Committee Meetings

2013

20-22 March 2013

Informal and formal meetings

26-28 June 2013

Informal and formal meetings

16-18 October 2013
(Workshop on SPS-related
Market Access Challenges &
Opportunities)

Informal and formal meetings



SPS Committee Meetings:

Standing Agenda Items

- Activities of Members
- Specific trade concerns
- Transparency
- Special and differential treatment
- Equivalence
- Pest- or disease-free areas
- Technical assistance





SPS Committee Meetings: Standing Agenda Items (Cont'd)

- Issues arising from second review of the SPS Agreement (e.g. Ad Hoc Consultations)
- Monitoring use of international standards
- Concerns with private & commercial standards
- Information from observer organizations
- Requests for observer status
- Other business
- Dates and agenda of next meeting



Adopted by the SPS Committee

Decisions, Guidelines and Recommended Procedures :

- Recommended procedures on transparency – **G/SPS/7/Rev.3**
- Guidelines on Consistency – **G/SPS/15**
- Decision on Equivalence – **G/SPS/19/Rev.2**
- Guidelines on Regionalization – **G/SPS/48**
- Transparency of special & differential treatment – **G/SPS/33/Rev.1**
- Agreed actions on SPS-related Private Standards (**G/SPS/55**)



SPS: General Issues in implementation

- Lack of awareness
- Inappropriate legislation (or no existing legislation)
- Capacity limitations
- Failure to use international standards
- Undue delays – in risk assessment, approval decisions, etc.
- Over-reactions in emergency situations
- Political pressures – hazard-based measures

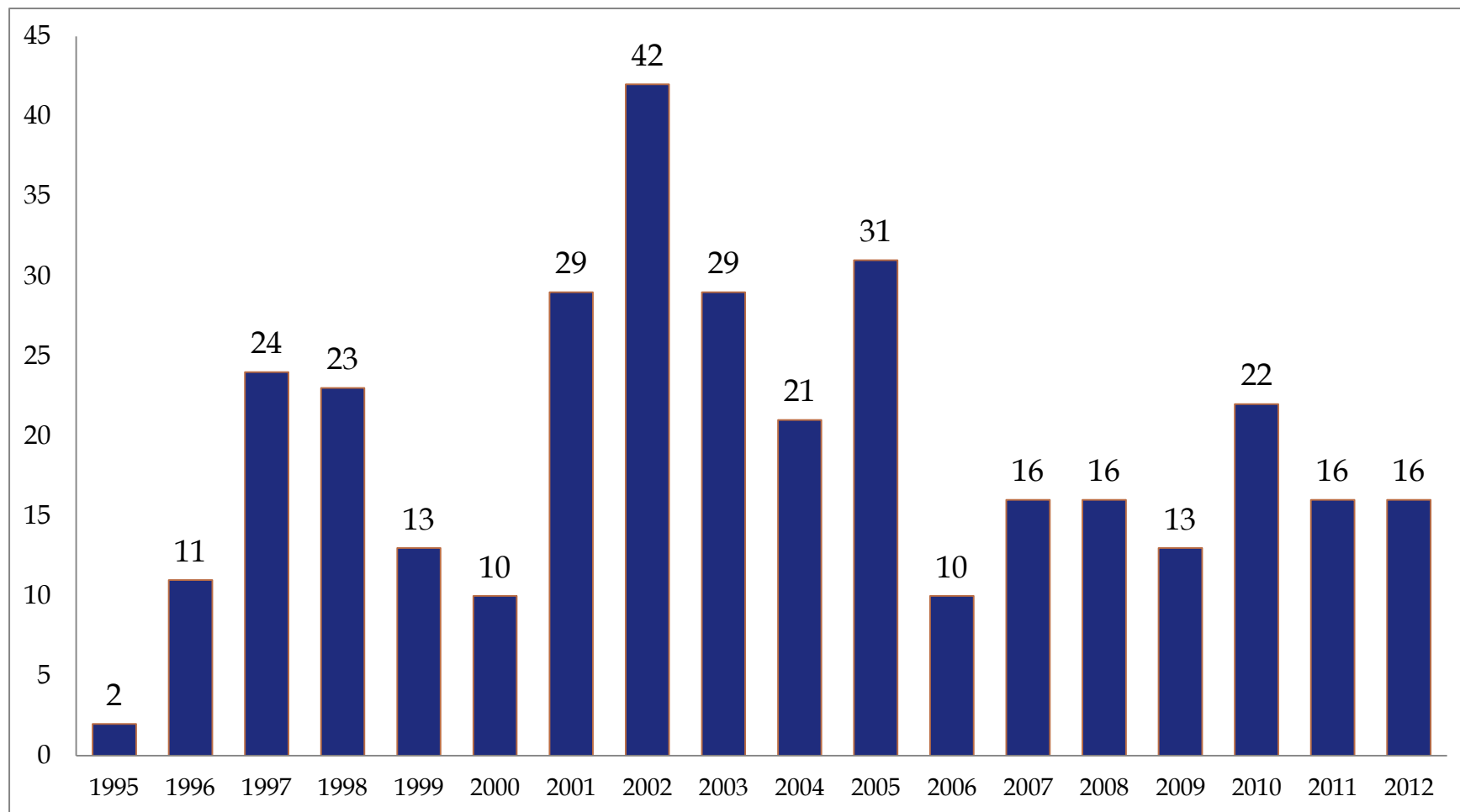


SPS Committee: Specific Trade Concerns





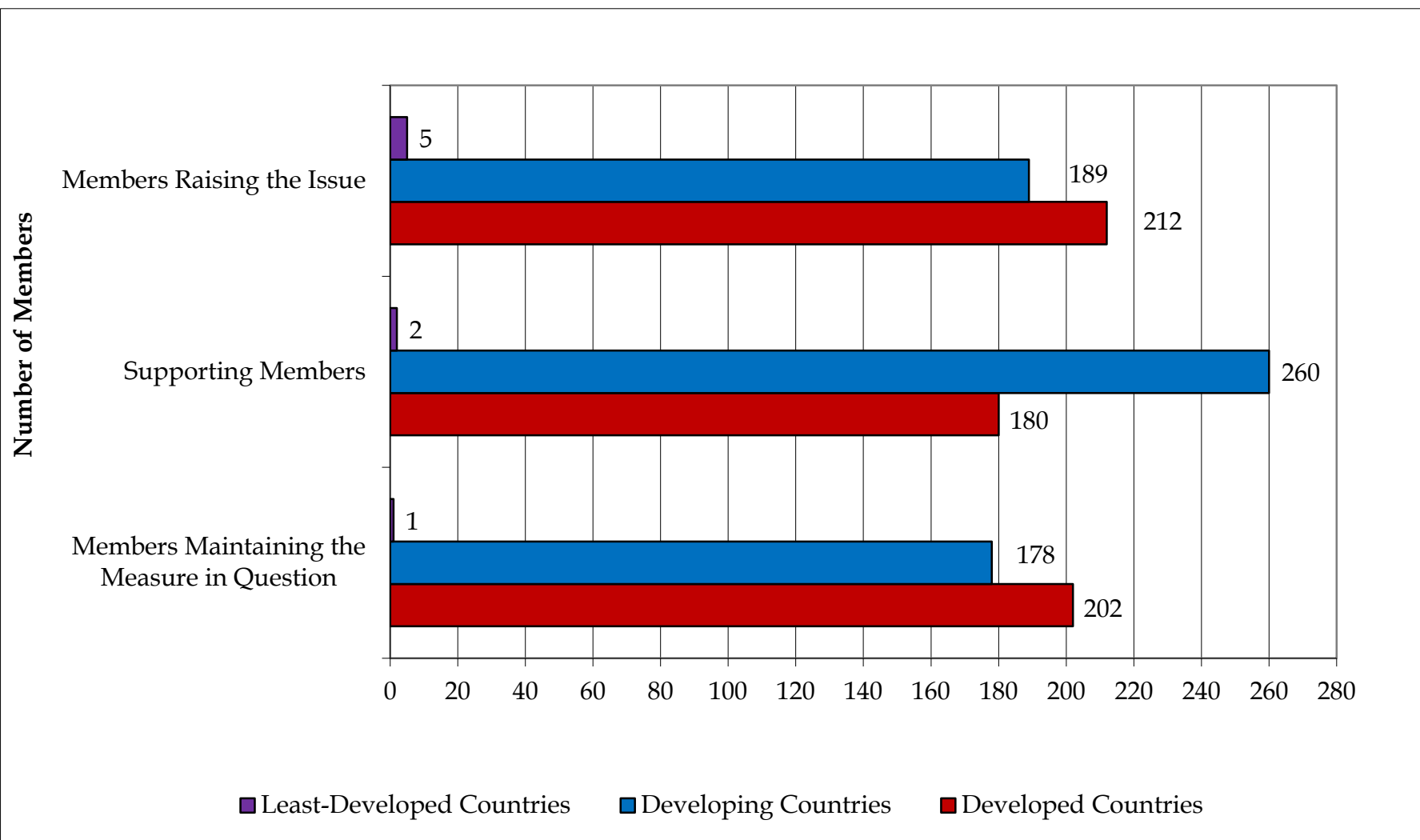
Specific Trade Concerns – SPS (1995-2012) **344 Total**





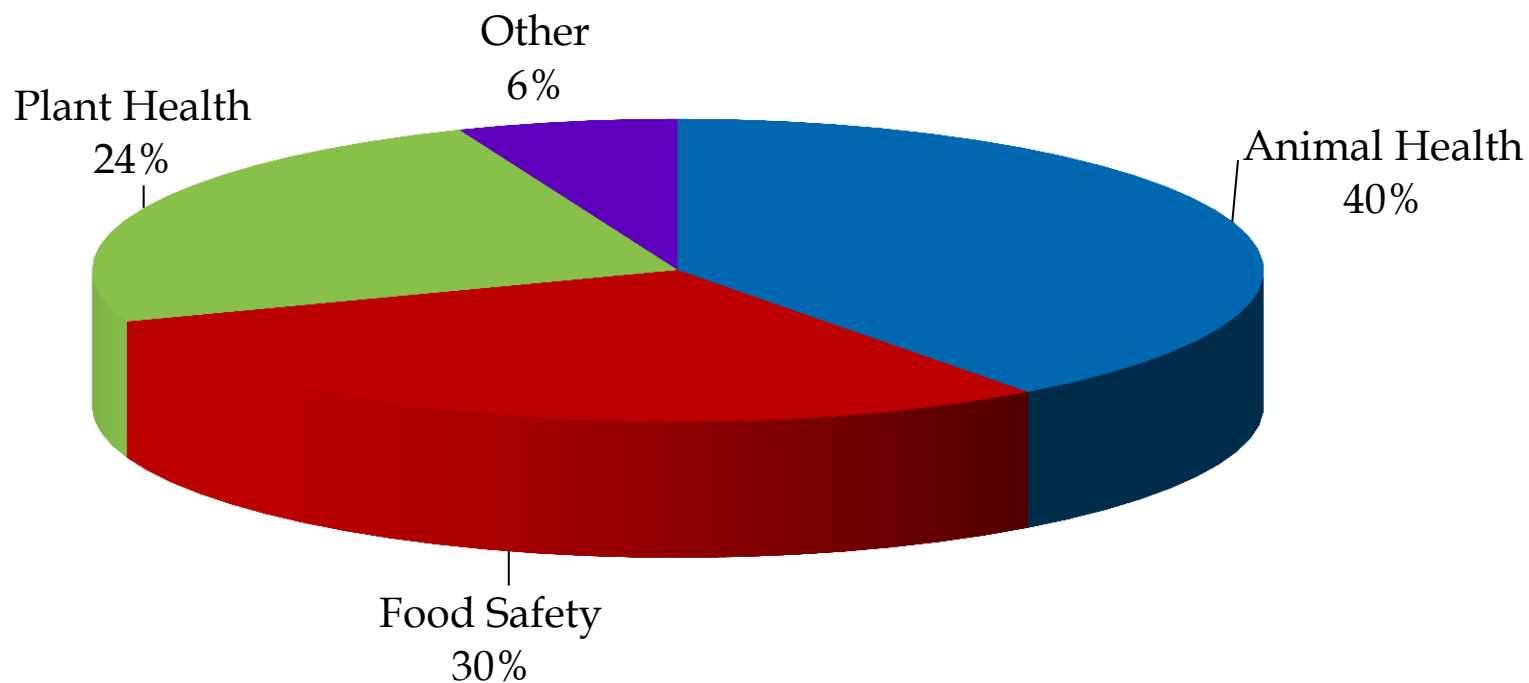
Participation by WTO Members

1995-2012





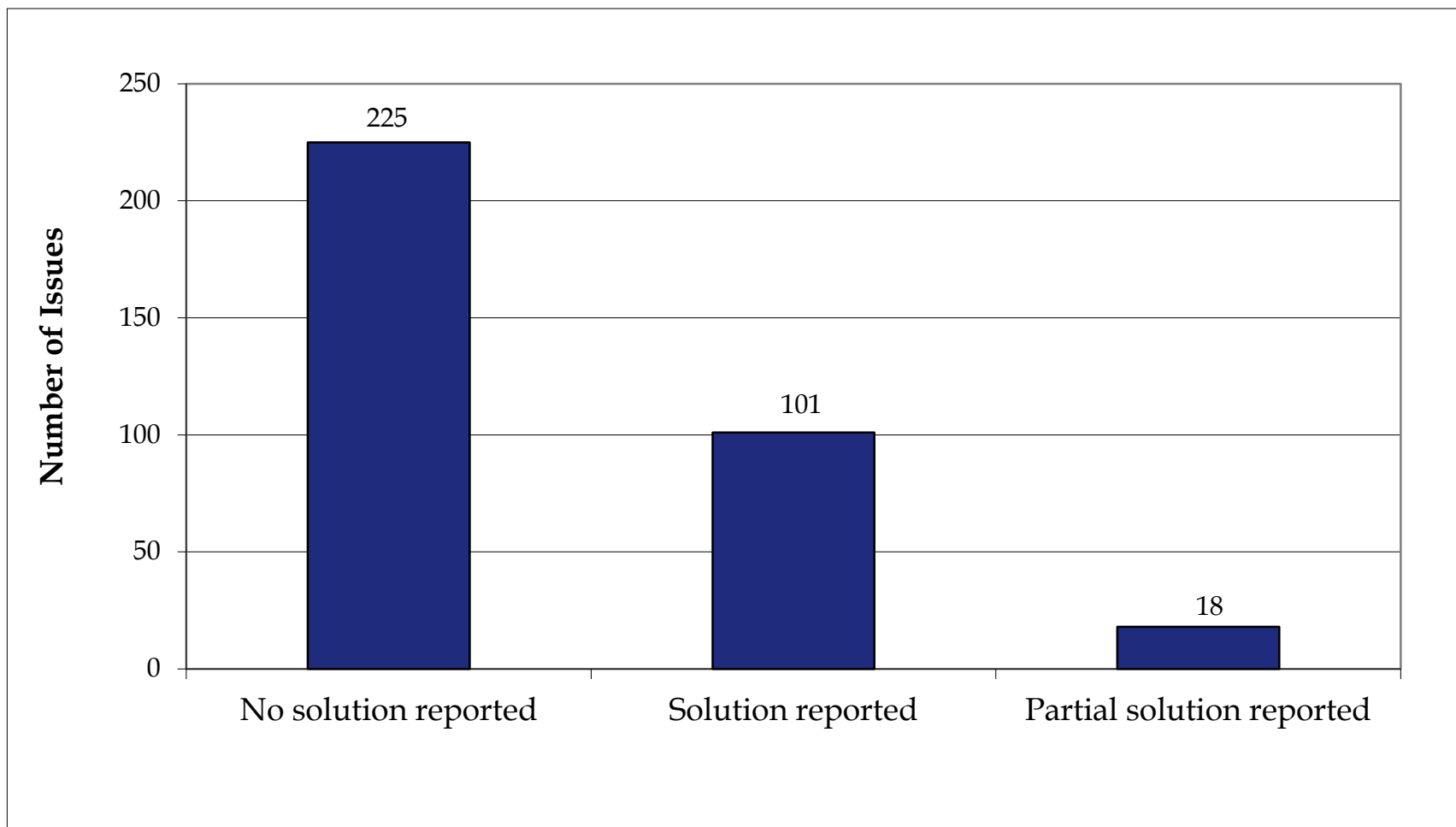
Specific Trade Concerns by Subject (1995-2012)



G/SPS/GEN/204/Rev.13



STCs Reported as Resolved (1995-2012)



G/SPS/GEN/204/Rev.13



Top 10 Members Maintaining Measures Complained Against

Member	Number of STCs
European Union	67
United States	40
Japan	27
China	20
Australia	16
Brazil	14
Indonesia	13
Korea, Republic of	12
Canada	11
Mexico	11

As of 4 March 2013



Top 10 Members Raising Specific Trade Concerns

Member	Number of STCs
United States	80
European Union	71
Argentina	39
China	28
Brazil	25
Canada	24
India	13
Australia	9
Thailand	9
Chile	8

As of 4 March 2013



STCs & SADC Members

- How many STCs do you think have been raised by SADC Members?



STCs & SADC Members

Member/Observer	STCs raised	STCs supported	Maintaining measure
South Africa	2	6	3
Tanzania	1	0	0



STCs – Raised by SADC Members

Title	Members raising the concern	Members supporting the concern	Members maintaining the measure	First date raised	Status
EC Directive 2001/661/EC on foot and mouth disease	South Africa		European Union	01/04/2003	Not reported
Restrictions on table grapes, apples and pears	South Africa	Senegal	Thailand	19/10/2011	Not reported
Trade restrictions in response to cholera	Tanzania		European Union	01/03/1998	Partially resolved



STCs – Supported by SADC Members

Title	Members raising the concern	Members supporting the concern	Members maintaining the measure	First date raised	Status	Date reported as resolved
Protected zones (eliminate criteria)	Uruguay	Chile, Mexico, South Africa	European Union	01/03/1997	Not reported	
Citrus canker (proposed measure)	Argentina	Brazil, Chile, South Africa , Uruguay	European Union	01/07/1997	Resolved	01/03/2004
Maximum levels for certain contaminants (aflatoxins) in foodstuffs	Argentina, Australia, Bolivia, Brazil, Gambia, India, Indonesia, Malaysia, Philippines, Senegal, Thailand	Canada, Colombia, Mexico, Pakistan, Paraguay, Peru, Philippines, South Africa , Turkey, USA, Uruguay	European Union	01/03/1998	Resolved	01/03/2004





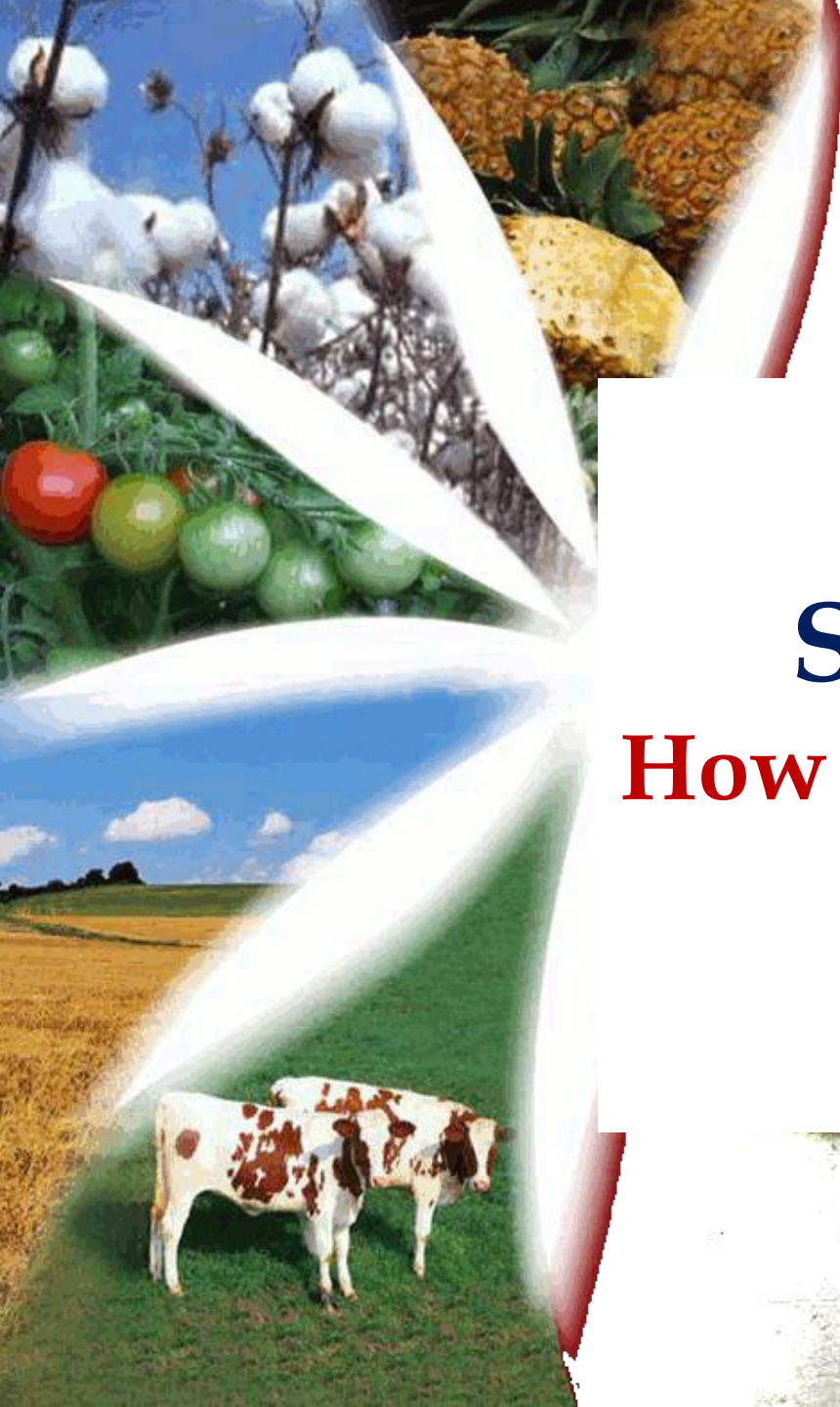
STCs – Supported by SADC Members

Title	Members raising the concern	Members supporting the concern	Members maintaining the measure	First date raised	Status	Date reported as resolved
Import restrictions on bovine semen and embryos, milk and milk products	European Union	South Africa , Switzerland	Argentina	01/03/1999	Resolved	01/02/2006
EurepGAP requirements for bananas	Saint Vincent and the Grenadines	Argentina, Belize, Cuba, Dominica, Ecuador, Indonesia, Jamaica, Kenya, Mexico, Peru, South Africa , Egypt	European Union	01/06/2005	Not reported	
Indonesia's port closures	China, New Zealand, USA, European Union	Argentina, Australia, Canada, Chile, Chinese Taipei, Japan, Korea, South Africa , Thailand, Uruguay	Indonesia	27/03/2012	Not reported	



STCs –Participating Countries maintaining measures

Title	Members raising the concern	Members maintaining the measure	First date raised	Status
Prohibition on bone-in beef imports from EC member States	European Union	South Africa	01/03/1998	Not reported
Restrictions on beef and pork	Brazil	South Africa	01/06/2002	Partially resolved
Import restrictions on fresh pork meat and beef	Brazil	South Africa	28/10/2009	Not reported



SPS Committee:

How to address SPS-related Trade Problems





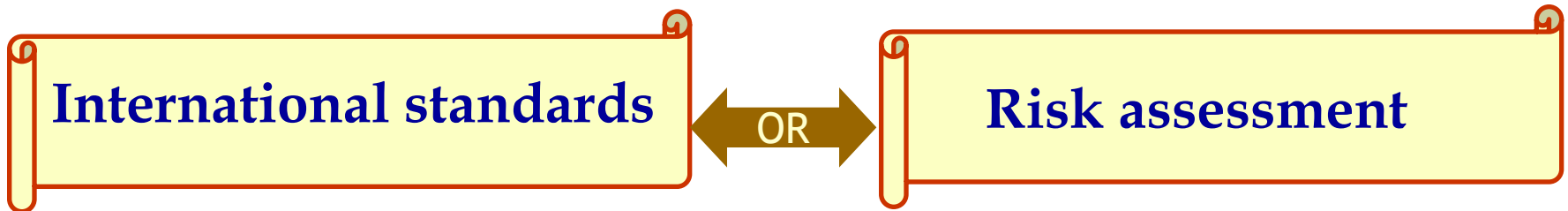
Remember: Conditions under which a SPS Measure can be taken:

- **Restrain trade to protect health**
- **Measures based on scientific principles (*international standards or risk assessment*)**
- **Non-discriminatory**
- **No disguised restrictions**



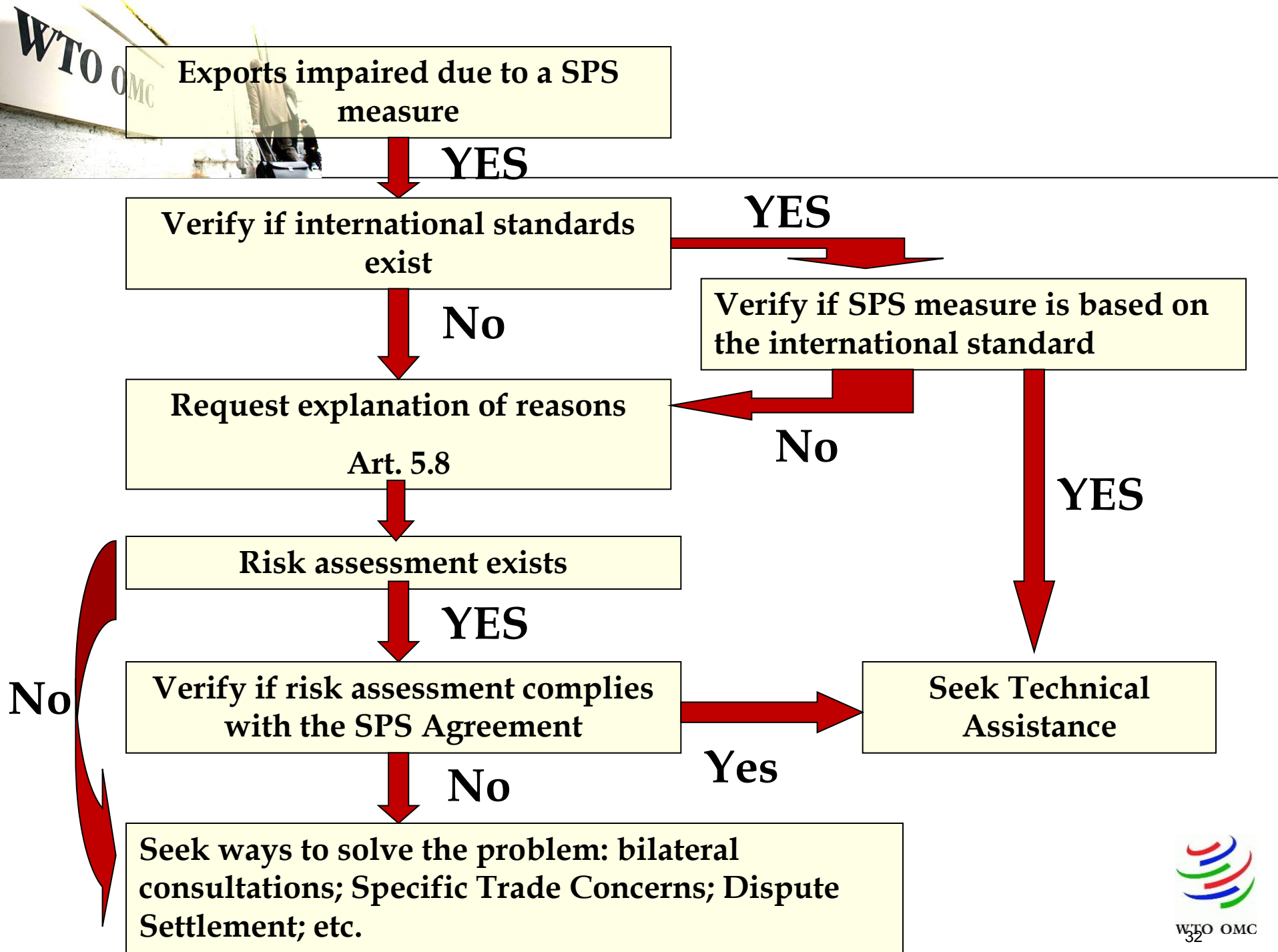
Recall: Scientific Justification Articles 3 & 5

Measures must be based on:





What series of questions should an exporting country ask when experiencing a SPS trade concern with a trading partner?





Ways to Address SPS Trade Concerns

1. Bilateral and/or Regional Efforts
2. SPS Committee – Specific Trade Concerns
3. Good Offices by the Chair of the SPS Committee
4. WTO Dispute Settlement System



1. Bilateral and/or Regional Efforts

Suggested Actions:

- Contact Enquiry Point
- Informal discussions on the margins of the SPS Committee meetings
- Request information through diplomatic channels



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2. SPS Committee – STCs

Suggested Actions:

- Consult previous Specific Trade Concerns (STCs)
- Communicate intention to raise an STC
 - At least 11 calendar days before the meeting
 - In writing
 - Inform the other Member concerned
- Seek support from other interested Members
- Present the STC at the SPS Committee Meeting



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3. Good Offices - Chair of the SPS Committee

Article 12.2

“The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. [...]”

**Procedure currently under discussion in the SPS Committee
(G/SPS/W/259/Rev.6)**



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4. WTO Dispute Settlement System

What is a WTO dispute ?

- Arises when a Member believes another is violating an agreement or commitment made
- Only involves governments
- Not a WTO dispute until the Member country notifies WTO Secretariat that a dispute exists



4. WTO Dispute Settlement System - Main Stages

I. Consultation phase

II. Panel review

III. [AB review]

IV. Adoption of report(s) by the DSB

V. Implementation

Good offices,
conciliation and mediation
possible at any moment





***Importantly for SPS Trade Problems:**

Dispute Settlement of OIE and IPPC

IPPC

**Technical dispute settlement
body**

OIE

Technical mediation

➤ **Pros:**

- Technical evaluation only
- No involvement of lawyers
- Less costly

➤ **Cons:**

- Enforcement difficulties
- Not binding



Where to get more information?

Dispute settlement gateway

http://www.wto.org/english/tratop_e/dispu_e.htm

Panel and Appellate Body report

http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm

SPS gateway

http://www.wto.org/english/tratop_e/sps/_e.htm



SPS Committee: **Recent issues under** **discussion**





Recent Issues under Discussion in the SPS Committee

1. Good Offices by the Chair of the SPS Committee (Ad Hoc Consultations)
2. Private Standards



Good Offices by the Chair of the SPS Committee

Why is it being discussed?	<ul style="list-style-type: none">▪ Useful route to facilitate agreement between Members on specific trade concerns.
Issue:	<ul style="list-style-type: none">▪ No specific procedures for its use. Focus is on developing procedures.
Discussions in the Committee	<ul style="list-style-type: none">▪ Several draft texts have been proposed based on Members' comments but with no agreement.▪ Members have discussed whether the procedure should:<ul style="list-style-type: none">❖ be mandatory or voluntary;❖ be transparent or confidential;❖ specify the role for the facilitator;❖ have set timeframes for each stage; and❖ be linked to other ongoing initiatives.▪ A final revision of the proposed procedure will be up for adoption in the October 2013 meeting.



Recent Issues under Discussion in the SPS Committee

1. Good Offices by the Chair of the SPS Committee (Ad Hoc Consultations)

2. Private Standards



Private Standards in International Trade – Why & How?

- Food safety concerns (BSE, E-coli, Salmonella)
- Private companies liability for food safety risks
- “Corporate Social Responsibility” and “Reputation Risks”
- Consumer increasing expectations, better informed, more health conscious and organized
- Estimation of over 400 private schemes (UNCTAD)

Trade Creation Potential Vs. Trade Barriers



Examples of Private Standards

- Individual Firms Schemes (Tesco, Carrefour)
- Collective National Schemes (British Retail Consortium)
- Collective International Schemes (GlobalGap)



Examples of Private Standards





Private Standards

Why is it being discussed?

- Market access implications (Private Standards going beyond official food safety requirements e.g., Maximum Residue Levels - MRLs)
- Developmental implications (Costs associated with private standards)
- Legal aspects (Applicability of SPS Agreement – Art. 13)

Discussions in the Committee

- The Committee has agreed on 5 of 12 proposed actions. Discussions now around how to implement the agreed actions.
- Most discussions have centred around Action 1: “SPS Committee to develop a working definition of private SPS standards”
- Members continue to discuss proposals to define SPS-related private standards.



Actions on Private Standards adopted by the SPS Committee (G/SPS/55)

- **Action 1:** SPS Committee to develop a working definition of private SPS standards
- **Action 2:** SPS Committee should regularly inform the three sisters on relevant developments
- **Action 3:** the Secretariat to inform the Committee on developments in other WTO fora
- **Action 4:** Members are encouraged to communicate with private standard entities in their territories to sensitize them to the issues raised in the SPS Committee
- **Action 5:** SPS Committee, Codex, the OIE, and the IPPC to support the development and/or dissemination of informative materials

No consensus achieved on Actions 7-12

Thank You!

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