WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

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COMMENTS ON THE CANADIAN PROPOSAL

Statement by Egypt at the Meeting of 7-8 November 2002

1. We would like to thank Canada for their proposal (G/SPS/W/127), which, we believe, is a very constructive step towards having a more operational and effective Article 10.1.

2. As you know, in the March 2002 meeting Egypt proposed the addition of a box to the notification format to deal with the implementation of Article 10.1 of the SPS Agreement (i.e. to identify the S&D component in a measure adopted or applied by an importing developed country Member). We noted that Article 10.1 is mandatory in nature. We further noted that there is a lack of transparency on its implementation by importing Members.

3. The intention of the proposed box is two-fold:

(a) To help developing countries pinpoint the notifications that concern them the most, and enable them to request bilateral consultations and provide comments; and

(b) Specify "beforehand" the types of technical assistance that could be provided by the importing ember.

4. This proposal – as mentioned earlier – emerges from the fact that many developing countries have major problems in dealing with the flood of notifications submitted by their trade partners, thus losing the opportunity to comment on the notifications in the allowed time-period, and consequently forgoing the utility of the procedure.

5. The proposal submitted by Canada "Enhancing Transparency of S&D Treatment within the SPS Agreement" serves well the transparency obligations under Article 7 and Annex B of the Agreement. However, it still doesn't specify the desirable results of bilateral consultations between the notifying developed country and interested developing countries. The last sentence in paragraph 3, 2nd page, states that "the result of these discussions could be specific S&D treatment with respect to the notified measure or other mutually acceptable solution". This, in our view, is "best endeavour" language, setting no mandatory commitments on the side of the notifying importing country to provide the required S&D to the exporting developing country. We would also seek clarification from the Canada on what would be the case if no mutually acceptable solution is reached during bilateral discussions?

6. Moreover, we would seek clarification of the meaning of the term "specific S&D treatment". Is it that the S&D treatment will be country specific or otherwise extended to all Members (developed and developing) following the MFN principle? Should the MFN principle apply to both developed and developing country Members, what would be the form of the special and differential treatment provided only to developing countries?

7. We further believe that it might be feasible for the notifying developed country to provide specific "ex ante" information upon notification. It is our conviction that providing this information should be a "must", if the notified measure involves regulations that go beyond the level set by the international standards, guidelines or recommendations. These types of "ex-ante" information will also cut short the otherwise long and open-ended bilateral meetings. Moreover, it will also make it more focused identifying available/desirable S&D and technical/financial assistance. The ex-ante information sought in this regard should include the identification of:

(a) Exporting developing countries interested in the notified measures: A developed notifying county can easily provide a "primary" list of developing countries, which are already exporting the products concerned or like products to the notifying country in the last three years, together with the associated export values (UN-COMTRADE or own customs information are sources from which the required data could be recalled).

(b) Type of technical requirements likely to be needed to comply with the notified measures: this information must be readily available, from the process of preparation for domestic implementation of the notified measure. This will assist interested developing country exporters examine/identify the exact areas and types of technical/financial assistance they would require.

(c) Type of S&D measure that the notifying country is ready to provide before going into bilateral consultation, such as indicating the actual time-frame, with regard to Article 10.2 (phased introduction of the new SPS measures, longer time-frames for compliance).

(d) Types and the source of technical and financial assistance that the notifying country is ready to provide upon bilateral requests: including assistance with respect to Article 10.4 (facilitating the participation of developing countries in the relevant international standard setting organizations).

(e) In case a developed country Member introduces or maintains sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on relevant international standards, guidelines or recommendations (Article 3.3 refers), the special and differential treatment could be that developing countries be allowed market access upon compliance with the relevant international standards (whenever they exist), i.e. developing countries should not be required to comply with the local, "more protective" measures of the importing developed countries in so far as there exists a relevant international standard.

8. Finally and again, my delegation would like to thank the delegation of Canada for their proposal. The idea of an addendum reinforces transparency as it helps "other interested developing" countries know the outcome of bilateral discussions between exporting developing countries and importing developed countries. This provides an easy opportunity for the same treatment be provided upon request without having to go through the consultation process all over again.

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