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MISSION REPORT

TRADE PROMOTION IN TAJIKISTAN - PHASE III

10 to 16 November 2011

Report by

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Management

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Contents

	Page
1. INTRODUCTION	1
2. BACKGROUND	1
3. TERMS OF REFERENCE OF THE MISSION	1
4. PROGRAMME DURING THE MISSION	1
5. ACCREDITATION OF LABORATORIES	1
6. IMPLEMENTATION OF THE TRANSPARENCY PROVISIONS OF THE WTO AGREEMENTS ON TBT AND SPS	2
7. STREAMLINING THE SPS INFRASTRUCTURE	2
8. NATIONAL QUALITY INFRASTRUCTURE	3
9. RECOMMENDATIONS AND FOLLOW-UP	3
10. ACKNOWLEDGEMENTS	3
ANNEXES	
Annex I - Draft policy statement on TBT transparency	5
Annex II - Draft policy statement on SPS transparency	11
Annex III – SOP for submitting notifications to the WTO	17
Annex III.i. Terms of reference of the NNA	20
Annex IV - SOP for responding to notifications from WTO members	21
Annex IV.i - Terms of reference for NNA	24
Annex IV.ii - Contents of Summary of Notifications	25
Annex IV.iii - Process flow for responding to notifications	26
Annex V - SOP for responding to enquiries (TBT)	27
Annex V.i - Terms of reference for NEP on TBT	29
Annex V.ii - Process Flow	30
Annex V.iii - Format for recording enquiries	31
Annex VI - SOP for responding to enquiries from WTO members – SPS	32
Annex VI.i - Terms of reference of NEP for SPS	35
Annex VI.ii - Process Flow	36
Annex VI.iii - Format for recording enquiries	37
Annex VII - SOP for responding to enquiries from Tajik exporters	38
Annex VII.i - Terms of reference of the Service Bureau	41
Annex VII.ii - Process Flow	42
Annex VII.iii - Format for recording enquiries	43
Annex VIII - Model Infrastructures for Conformity Assessment and Related Activities	44

1. INTRODUCTION

This report covers the mission of the ITC Senior Adviser on Standards and Quality Management from 10 to 16 November 2011. Previous missions related to Objective 4 of the project (see Section 2 below) had taken place in May 2010, November 2010, May 2011 and July 2011¹.

2. BACKGROUND

The overall objective of this project is to contribute to the sustainable expansion and diversification of SMEs' exports in Tajikistan through increasing the competitiveness of the textile and clothing ("T&C") industry and improving the quality management infrastructure of the country.

Consistent with its overall objective, the project will focus on four immediate objectives, one of which is detailed below:

Immediate Objective 4: To improve the capacity of SQAM, SPS and TBT bodies and the regulatory infrastructure.

The project will complement ITC's earlier assistance in improving the quality management infrastructure of the country with further inputs e.g. assistance to two laboratories of Tajikstandart to enable them to be accredited by a full member of the International Laboratory Accreditation Centre (ILAC), the establishment of a National Notification Authority and a National Enquiry Point for TBT as well as SPS, and streamlining the SPS infrastructure.

3. TERMS OF REFERENCE OF THE MISSION

The objectives of the mission were the following:

- To follow-up on project activities with respect to the accreditation of two laboratories and participate in project activities with respect to streamlining the SPS infrastructure;
- To provide assistance for making the National Notification Authority (NNA) and National Enquiry Point (NEP) for SPS and TBT operational.

4. PROGRAMME DURING THE MISSION

The programme focused on reviewing and finalizing the two draft policy statements for TBT and SPS transparency respectively and the five Standard Operating Procedures (SOPs) required as per the action plan for implementing the transparency provisions of the WTO Agreements on TBT and SPS. In that context, there were working sessions with the persons responsible for the NNA and the NEPs for TBT and SPS and with the Service Bureau for Tajik exporters. Meetings were also held with Tajikstandart, the EC Delegation to Tajikistan and the Ministry of Economic Development and Trade.

5. ACCREDITATION OF LABORATORIES

Tajikstandart is considering shifting its accreditation from DAkkS to the National Centre of Accreditation (NCA) in Kazakhstan, the first such body in Central Asia to become a full member of ILAC. Negotiations have been initiated with the NCA in Kazakhstan and but it would appear that the application forms for the two laboratories have not yet been submitted to NCA. This should be done urgently as the accreditation from DAkkS, the German national accreditation body, would lapse when the time for the first surveillance audit is due as Tajikstandart would not bear the cost of this audit due to its high cost.

¹ Reference to ITC reports ITC/DCP/10/2920, ITC/DCP/11/2924, ITC/DCP/11/2927 & ITC/DCP/11/2929.

6. IMPLEMENTATION OF THE TRANSPARENCY PROVISIONS OF THE WTO AGREEMENTS ON TBT AND SPS

Information and contact details of the NEP for TBT are now available on the WTO website. There is only the name of the contact person and organization for the NEP for SPS. The Secretariat of the WTO Committee on SPS has been requested to put the information and contact details of the NEP for SPS as this would enable exporters to Tajikistan to obtain the relevant information about SPS measures there.

Draft policy statements on TBT and SPS were reviewed and completed. The main features were explained to Mr. Anvar Ibragimov, Head of the WTO Affairs Division, Ministry of Economic Development and Trade. These should be submitted to the Working Group on the Transparency Provisions of the WTO Agreements on TBT and SPS in Tajikistan for comments, finalized after taking into consideration the comments, submitted to the Ministry of Economic Development and Trade for approval, and then disseminated to stakeholders. The draft policy statements on TBT and SPS transparency are reproduced as Annexes I and II.

Working sessions were organized with representatives from the NNA for TBT and SPS, the NEPs for TBT and SPS, and the Service Bureau for Tajik exporters to explain and review the draft SOPs for the following as appropriate:

- SOP for submitting notifications to the WTO (Annex III)
- SOP for responding to notifications from WTO Members (Annex IV)
- SOP for responding to enquiries from WTO Members – TBT (Annex V)
- SOP for responding to enquiries from WTO Members - SPS (Annex VI)
- SOP for responding to enquiries from Tajik exporters (Annex VII)

These SOPs should be approved by the responsible persons designated therein and issued for implementation, as appropriate, as the SOP related to notifications from WTO Members could be implemented only when Tajikistan becomes a WTO Member. The SOP for responding to notifications from WTO Members can be implemented only partially as Tajikistan cannot submit comments on notifications since it is not yet a WTO member. However, if some draft technical regulation or SPS measure is of significant importance for Tajikistan, it could request Kyrgyzstan to raise the issue as the latter is a WTO Member.

7. STREAMLINING THE SPS INFRASTRUCTURE

The author attended the roundtable on “organizational arrangements for food safety management in Tajikistan” conducted by Digby Gascoine, ITC International Consultant on SPS issues, with Kosim Kurbonov, ITC National Consultant on SPS, on 11 November 2011. A separate report is available on this subject which details the conclusions of the roundtable discussion². There was agreement that it would be appropriate for each phase of the progression from primary production or import, through secondary processing, distribution, sale in bazaars or stores, sale in ready-to-eat form, or export, to be regulated by a single agency.

It is the view of this author that, for all imported foods and foods produced locally for domestic consumption except primary products and primary processing, the responsibility should lie with the Ministry of Health. The responsibility for primary products and primary processing should lie with the Ministry of Agriculture. The role of Tajikstandart would be restricted to the establishment of food standards and the provision of laboratory services to the Ministry of Agriculture and the Ministry of Health. The importing countries decide on the type of control for exported products.

The Law on Technical Regulations specifies that technical regulations could be established for sanitary and phytosanitary measures. It is recommended that sanitary and phytosanitary measures be excluded from this law. Sanitary measures can be established under the relevant laws dealing with food safety and animal health and phytosanitary measures established under the relevant law dealing

² ITC report ITC/DCP/11/2931

with plant health, as is the usual practice. Indeed, SPS measures are not called “technical regulations” in WTO terminology.

8. NATIONAL QUALITY INFRASTRUCTURE

A strategy has been adopted for the development of the national quality infrastructure (see Annex II of ITC mission report ITC/DCP/10/2920). ITC had made recommendations for improving the national quality infrastructure and development of the law on technical regulations (see ITC mission report ITC/BPP/09/2901).

In the context of the reform of the national quality infrastructure, the author would like to share a document on “Model Infrastructures for Conformity Assessment and Related Activities” prepared by John Gilmour, ITC International Consultant on National Laboratory Accreditation Body (Team Leader) for Kyrgyzstan, when ITC was asked to comment on the Concept Paper for the Development of the National Quality Infrastructure in Kyrgyzstan earlier this year. This is reproduced as Annex VIII.

It is important that the accreditation function in Tajikstandart be removed as soon as possible from that organization because of conflict of interest. Tajikstandart is not fulfilling the requirement that an accreditation body cannot belong to an organization that undertakes any function subject to accreditation such as testing and certification as it is carrying out such activities.

9. RECOMMENDATIONS AND FOLLOW-UP

9.1 Accreditation of laboratories

Tajikstandart should urgently submit an application for accreditation of the two laboratories accredited by DAkKS to NCA in Kazakhstan so that the accreditation status of the laboratories is maintained as the maintenance cost of accreditation by DAkKS is quite high.

9.2 Working Group on the Transparency Provisions of the WTO Agreements on TBT and SPS

The above Working Group should review the draft policy statements on TBT and SPS transparency respectively and finalize them for submission to the Ministry of Economic Development and Trade. They should then be distributed to stakeholders.

9.3 Implementation of the transparency provisions of the WTO Agreements on TBT and SPS

The five SOPs should be approved by the responsible persons designated therein and issued for implementation, as appropriate, as the SOP related to notifications from WTO Members could be implemented only when Tajikistan becomes a WTO Member.

10. ACKNOWLEDGEMENTS

The author would like to express his appreciation to the ITC staff, both in Geneva and Dushanbe, and in particular to Armen Zargaryan, Regional Trade Promotion Adviser; Saidmumin Kamolov, National Project Manager; Nargiza Abjumajidova, National Programme Assistant; Kosim Kurbonov, National Consultant on SPS; and Farzona Tilavova, National Consultant on TBT.

Annex I - Draft policy statement on TBT transparency

Meeting the transparency obligations of the WTO Agreement on Technical Barriers to Trade and benefitting from them

1. Introduction

One of the principal features of the World Trade Organization TBT Agreement (the Agreement on Technical Barriers to Trade) is a set of rules relating to transparency in the formulation and existence of standards, technical regulations and conformity assessment procedures.

The rules cover three areas: notification of technical regulations and conformity assessment procedures, answering specific queries, and publication of standards, technical regulations and conformity assessment procedures (TBT measures).

Tajikistan is committed to meeting its transparency obligations under the TBT Agreement and to benefit from such obligations that have to be met by WTO Members. This policy statement sets out the principles and practices necessary to ensure all agencies involved in formulating or implementing Tajikistan's TBT measures meet these obligations. It also sets out the principles and practices to ensure that Tajikistan benefits from the obligations of "other" WTO Members.

2. Background to TBT notifications

The TBT Agreement requires WTO Members to notify other Members of proposed national technical regulations and conformity assessment procedures. The WTO Secretariat to the Committee on Technical Barriers to Trade is responsible for receiving and distributing notifications on behalf of Members.

Any WTO Member proposing to introduce technical regulations and conformity assessment procedures is, except in emergencies, required to:

- Allow reasonable time for other WTO Members to make comments in writing on the proposed measure;
- Discuss these comments upon request;
- Take the comments and the results of the discussions into account;
- Explain to the submitting WTO Member how it plans to take their comments into account;
- Where appropriate, provide additional relevant information on the proposed technical regulations or conformity assessment procedures concerned;
- Provide the submitting WTO Member with a copy of the corresponding technical regulations or conformity assessment procedures as adopted, or information that no corresponding technical regulations or conformity assessment procedures will be adopted for the time being.

3. Criteria for notification

Tajikistan's proposed technical regulations and conformity assessment procedures will be notified whenever:

- either an international standard, guideline or recommendation does not exist, or;

- the content of a proposed technical regulation or conformity assessment procedure is not substantially the same as the content of an international standard, guideline or recommendation, and, in both cases, if;
- the technical regulation or conformity assessment procedure may have a significant effect on trade of other WTO Members.

4. Technical regulations and conformity assessment procedures

A technical regulation lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method (annex 1).

A conformity assessment procedure is any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled (annex 1).

A standard is a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method (annex 1).

Tajikistan's technical regulations are any measure applied to fulfill legitimate objectives such as national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health; or the environment.

Tajikistan's technical regulations therefore include, but are not limited to, regulations adopted under the Law on Technical Regulating and the Law on Certification of Production and Services.

4.1 International Standards, Guidelines or Recommendations

There is no list of international standard-setting bodies in the TBT Agreement. However, the WTO Committee on TBT, during its second triennial review in 2000, noted that a diversity of bodies were involved in the preparation of international standards (i.e. intergovernmental or non-governmental bodies specialized in standards development or involved also in other related activities), and that different approaches and procedures were adopted by them in their standardization activities. However, the obligation under the Agreement for Members to use international standards was the same.

In order for international standards to make a maximum contribution to the achievement of the trade facilitating objectives of the Agreement, it was important that all Members had the opportunity to participate in the elaboration and adoption of international standards. Adverse trade effects might arise from standards emanating from international bodies as defined in the Agreement that had no procedures for soliciting input from a wide range of interests. Bodies operating with open, impartial and transparent procedures, that afforded an opportunity for consensus among all interested parties in the territories of at least all Members, were seen as more likely to develop standards which were effective and relevant on a global basis and would thereby contribute to the goal of the Agreement to prevent unnecessary obstacles to trade. In order to improve the quality of international standards and to ensure the effective application of the Agreement, the Committee agreed that there was a need to develop principles concerning transparency, openness, impartiality and consensus, relevance and

effectiveness, coherence and developing country interests that would clarify and strengthen the concept of international standards under the Agreement and contribute to the advancement of its objectives. In this regard, the Committee adopted a decision containing a set of principles it considered important for international standards development (Annex 4 of G/TBT/9). These principles were seen as equally relevant to the preparation of international standards, guides and recommendations for conformity assessment procedures. The dissemination of such principles by Members and standardizing bodies in their territories would encourage the various international bodies to clarify and strengthen their rules and procedures on standards development, thus further contributing to the advancement of the objectives of the Agreement.

The criterion for notification is whether the content, not the intent, of a proposed technical regulation or conformity assessment procedure is substantially the same as the content of an international standard, guideline or recommendation. Even if the legitimate objective of the measure is the same as that delivered by the standard, if the measures required are not substantially the same as those in the international standard, the measure meets this criterion for notification.

4.2 Significant Effect on Trade

When assessing whether the technical regulation or conformity assessment procedure may have a “significant” effect on trade, the following aspects should be taken into account:

- the value or other importance of imports in respect of the importing and/or exporting Members concerned, whether from other Members individually or collectively;
- the potential development of such imports, and;
- difficulties for producers in other Members to comply with the proposed technical regulation or conformity assessment procedure.

The concept of a significant effect on trade of other WTO Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

The concept of “significant effect” on the trade of other WTO Members may refer to the effect on trade:

- of one technical regulation/conformity assessment procedure only or of various technical regulations/conformity assessment procedures in combination;
- in a specific product, group of products or products in general, and;
- between two or more WTO Members.

Ministries and agencies developing technical regulations and conformity assessment procedures for Tajikistan should adhere to the tactics of “may have a significant effect on the trade of other WTO Members” widely, and notify technical regulations/conformity assessment procedures if there are any doubts on this criterion.

5. Routine notifications

Draft regulations will be notified at an early stage when amendments can still be introduced and comments taken into account. Ministries and agencies of Tajikistan should meet the recommended minimum consultation period of 60 days.

6. Emergency notifications

In accordance with paragraph 10 of article 2 or paragraph 7 of article 5, Tajikistan may omit such of the steps required by the normal notification procedure as it finds necessary when “urgent problems of safety, health, environmental protection or national security arise or threaten to arise”, provided that Tajikistan:

- immediately notifies other Members (through the WTO TBT 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);
- provides, upon request, copies of the regulation to other Members;
- allows other WTO Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account .

Ministries and agencies of Tajikistan should make emergency notifications only in cases where full consultation is not possible, and the criteria of paragraph 10 of article 2 or paragraph 7 of article 5 are fulfilled.

7. Responding to submissions

It is the responsibility of any ministry or agency of Tajikistan receiving submission on notified documents to:

- acknowledge receipt of submissions;
- discuss submissions if requested to;
- explain to all submitters how their comments are (or are not) being taken into account in the final technical regulation or conformity assessment procedure;
- provide extra information on the measure if requested;
- and, in all cases, send to all submitters a copy of the final technical regulation or conformity assessment procedure when it is adopted, or (if applicable) advise that no measure is being adopted for the time being. (Providing the World Wide Web reference of the final measure would be an acceptable alternative for most countries.)

8. Responding to enquiries from “other” WTO Members

The National Enquiry Point on TBT has to respond on all reasonable queries of interested WTO Members and submit relevant documents on:

- any technical regulations, standards and conformity assessment procedures adopted or proposed within Tajikistan;
- the membership and participation of Tajikistan, or of relevant bodies within its territory, in international and regional standardizing bodies and conformity assessment systems as well as in bilateral and multilateral arrangements within the scope of the TBT Agreement, and the provisions of such systems and arrangements.

Other agencies of Tajikistan should cooperate in this task as required.

9. Publication of Regulations

Ministries and agencies responsible for Tajikistan’s TBT measures should ensure that all technical regulations, standards and conformity assessment procedures (as outlined in section 3.1) which have been adopted are published promptly and in such a way as to enable interested WTO Members to become acquainted with them.

Except in emergencies, as defined in section 5, these ministries and agencies should allow a reasonable time between the publication of a technical regulation or conformity assessment procedure and its coming into force. Once a standard has been adopted, it shall be promptly published.

10. Procedures

The WTO Affairs Division within the Ministry of Economic Development and Trade is in charge of organization and overall coordination of accession of the Republic of Tajikistan to WTO and is responsible for implementing, on a national level, the provisions of paragraph 10 of article 10 of the TBT Agreement relating to the TBT National Notification Authority. Tajikstandart is responsible for implementing, on a national level, the provisions of paragraphs 1 and 3 of article 10 relating to the TBT National Enquiry Point. These functions relate to the obligations of Tajikistan related to the transparency provisions of the WTO TBT Agreement.

The TBT National Notification Authority is responsible for tracking notifications from WTO members. This responsibility will remain with the National Notification Authority until the accession of Tajikistan to WTO when it will be transferred to the TBT National Enquiry Point. The Union of Businessmen and Exporters of Tajikistan will operate a “Service Bureau for Tajik exporters” to provide information on technical requirements, inter alia, by contacting the national enquiry points in WTO Members. These functions that are discretionary will enable Tajikistan to benefit from the transparency obligations of “other” WTO Members.

The contact details of the TBT National Notification Authority of the Republic of Tajikistan are the following:

National Notification Body under the WTO Affairs Division of
the Ministry of Economic Development and Trade of the Republic of Tajikistan
734002, 37 Bokhtar Str., Dushanbe
Tel: +(992-37) 227-88-57
Fax: +(992-37) 227-88-57
E-mail: info@medt.tj
Contact person: Mr. Parviz Emomov

The contact details of the TBT National Enquiry Point are the following:

Agency on Standardization, Metrology, Certification and Trade Inspection (Tajikstandart)
under the Government of the Republic of Tajikistan
42/2 Nemat Karaboev Street
734018, Dushanbe, Republic of Tajikistan
Tel: +(992 37) 233-68-69
Fax: +(992 37) 251-01-74
E-mail: info@standard.tj
Contact person: Mr. Firdavs Karimov

The contact details of the Service Bureau for Tajik exporters are the following:

Union of Businessmen and Exporters of Tajikistan
1 Firdavsi Street, Dushanbe, Tajikistan
Tel: +(992 37) 880 40 24
Fax: +(992 37) 224 38 83
Email: t_sharipov@mail.ru; spet2009@mail.ru

Website: www.spet.tj

Contact person: Mr. Taqdir Sharipov

Each ministry or agency developing Tajikistan's TBT measures should, where appropriate, establish documented procedures (filing, registration, archiving, etc.) to ensure the fulfillment of this policy. The procedures for implementing the activities described in the first two paragraphs of this section should be documented.

19 November 2011

Annex II - Draft policy statement on SPS transparency

Meeting the transparency obligations of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and benefitting from them

1. Introduction

One of the principal features of the World Trade Organization SPS Agreement (the Agreement on the Application of Sanitary and Phytosanitary Measures) is a set of rules relating to transparency in the formulation and existence of sanitary and phytosanitary (SPS) measures.

The rules cover three areas: notification of SPS measures, answering specific queries and publication of regulations.

Tajikistan is committed to meeting its transparency obligations under the SPS Agreement and to benefit from such obligations which have to be met by WTO Members. This policy statement sets out the principles and practices necessary to ensure all agencies involved in formulating or implementing Tajikistan's SPS measures meet these obligations. It also sets out the principles and practices to ensure that Tajikistan benefits from the obligations of "other" WTO Members.

2. Background to SPS notifications

The SPS Agreement requires WTO Members to notify other Members of proposed national sanitary and phytosanitary regulations. The WTO Secretariat to the Committee on SPS measures is responsible for receiving and distributing notifications on behalf of Members.

Any WTO Member proposing to introduce SPS measures is, except in emergencies, required to:

- Allow reasonable time for other WTO Members to make comments in writing on the proposed measure;
- Discuss these comments upon request;
- Take the comments and the results of the discussions into account;
- Explain to the submitting WTO Member how it plans to take their comments into account;
- Where appropriate, provide additional relevant information on the proposed SPS regulations concerned;
- Provide the submitting WTO Member with a copy of the corresponding SPS regulations as adopted, or information that no corresponding SPS regulations will be adopted for the time being.

3. Criteria for notification

Tajikistan's proposed sanitary and phytosanitary regulations will be notified whenever:

- either 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 trade of other WTO Members.

3.1 SPS Regulations

SPS regulations are “sanitary and phytosanitary measures such as laws, decrees or ordinances that are applicable generally” (SPS Agreement annex B, footnote 5). 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” (annex A, paragraph 1).

Tajikistan’s SPS measures are any measure applied:

- to protect animal or plant life or health within Tajikistan from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- to protect human or animal life or health within Tajikistan from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
- to protect human life or health within Tajikistan from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
- to prevent or limit other damage within Tajikistan from the entry, establishment or spread of pests (annex A, paragraph 1).

Tajikistan’s SPS regulations therefore include, but are not limited to, SPS measures adopted under the Law on Food Quality and Safety, the Law on Providing Sanitary and Epidemiological Safety of the Population, the Law on Plant Quarantine and the Law on Veterinary.

3.2 International Standards, Guidelines or Recommendations

These are:

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 International Office of Epizootics;

For plant health:

- the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in co-

operation with regional organizations operating within the framework of the International Plant Protection Convention.

The criterion for notification is whether the content, not the intent, of a proposed SPS regulation is substantially the same as the content of an international standard, guideline or recommendation. Even if the health objective of, or level of protection achieved by, the measure is the same as that delivered by the standard, if the measure required is not substantially the same as that in the international standard, the measure meets this criterion for notification.

3.3 Significant Effect on Trade

When assessing whether the SPS regulation may have a “significant” effect on trade, the following aspects should be taken into account:

- the value or other importance of imports in respect of the importing and/or exporting Members concerned, whether from other Members individually or collectively;
- the potential development of such imports, and;
- difficulties for producers in other Members to comply with the proposed SPS regulations.

The concept of a significant effect on trade of other WTO Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

The concept of “significant effect” on the trade of other WTO Members may refer to the effect on trade:

- of one sanitary or phytosanitary regulation only or of various sanitary or phytosanitary regulations in combination;
- in a specific product, group of products or products in general, and;
- between two or more WTO Members.

Ministries and agencies developing SPS measures for Tajikistan should adhere to the tactics of “may have a significant effect on the trade of other WTO Members” widely, and notify SPS measures if there are any doubts on this criterion.

4. Routine notifications

Draft regulations will be notified at an early stage when amendments can still be introduced and comments taken into account. Ministries and agencies of Tajikistan should meet the recommended minimum consultation period of 60 days.

5. Emergency notifications

In accordance with paragraph 6 of annex B, Tajikistan may omit such of the steps required by the normal notification procedure as it finds necessary when “urgent health protection problems arise or threaten to arise”, provided that Tajikistan:

- immediately notifies other Members (through the WTO SPS 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);
- provides, upon request, copies of the regulation to other Members;
- allows other WTO Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account (annex B, paragraph 6).

Ministries and agencies of Tajikistan should make emergency notifications only in cases where full consultation is not possible, and the criteria of annex B, paragraph 6, are fulfilled.

6. Responding to submissions

It is the responsibility of any ministry or agency of Tajikistan receiving submissions on notified documents to:

- acknowledge receipt of submissions;
- discuss submissions if requested to;
- explain to all submitters how their comments are (or are not) being taken into account in the final SPS measure;
- provide extra information on the measure if requested;
- and, in all cases, send to all submitters a copy of the final SPS measure when it is adopted, or (if applicable) advise that no measure is being adopted for the time being. (Providing the World Wide Web reference of the final SPS measure would be an acceptable alternative for most countries.)

7. Enquiries from “other” WTO Members

The National Enquiry Point on SPS has to respond to all reasonable queries of interested WTO Members and submit relevant documents on:

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

Other agencies of Tajikistan should cooperate in this task as required.

8. Publication of Regulations

Ministries and agencies responsible for Tajikistan's SPS measures should ensure that all SPS regulations (as outlined in section 3.1) that have been adopted are published promptly and in such a way as to enable interested WTO Members to become acquainted with them.

Except in emergencies, as defined in section 5, these ministries and agencies should allow a reasonable time between the publication of an SPS regulation and its coming into force.

9. Procedures

The WTO Affairs Division within the Ministry of Economic Development and Trade is in charge of organization and overall coordination of accession of the Republic of Tajikistan to WTO and is responsible for implementing, on a national level, the provisions of Annex B of the SPS Agreement relating to the SPS National Notification Authority. The Department of Economic Development and Forecasting in the Ministry of Agriculture is responsible for implementing on a national level, the provisions of Annex B relating to the SPS National Enquiry Point. These functions relate to the obligations of Tajikistan related to the transparency provisions of the WTO SPS Agreement.

The SPS National Notification Authority is responsible for tracking notifications from WTO Members. This responsibility will continue until the accession of Tajikistan to WTO when it will be transferred to the SPS National Enquiry Point. The Union of Businessmen and Exporters of Tajikistan will operate a "Service Bureau for Tajik exporters" to provide information on technical requirements, inter alia, by contacting the national enquiry points in WTO Members. These functions that are discretionary will enable Tajikistan to benefit from the transparency obligations of "other" WTO Members.

The contact details of the SPS National Notification Authority of the Republic of Tajikistan are the following:

National Notification Body under the WTO Affairs Division of
the Ministry of Economic Development and Trade of the Republic of Tajikistan
734002, 37 Bokhtar Str., Dushanbe
Tel: (992-37) 227-88-57
Fax: (992-37) 227-88-57
E-mail: info@medt.tj
Contact person: Mr. Parviz Emomov

The contact details of the SPS National Enquiry Point are the following:

SPS National Enquiry Point under the Department of Economic Development and
Forecasting of the Ministry of Agriculture of the Republic of Tajikistan
44 Rudaki Avenue
734025, Dushanbe, Tajikistan
Tel.: + (992 37) 221 15 96
Fax: +(992 37) 221 16 28
Email: saidnuriddin-84@mail.ru
Contact person: Mr. Saidnuriddin Bakhridinov

The contact details of the Service Bureau for Tajik exporters are the following:

Union of Businessmen and Exporters of Tajikistan

1 Firdavsi Street, Dushanbe, Tajikistan

Tel: +(992 37) 880 40 24

Fax: +(992 37) 224 38 83

Email: t_sharipov@mail.ru; spet2009@mail.ru

Website: www.spet.tj

Contact person: Mr. Taqdir Sharipov

Each ministry or agency developing Tajikistan's SPS measures should, where appropriate, establish documented procedures (filing, registration, archiving etc.) to ensure the fulfillment of this policy. The procedures for implementing the activities described in the first two paragraphs of this section should be documented.

19 November 2011

Annex III – SOP for submitting notifications to the WTO

1. TITLE: Submitting notifications related to the transparency provisions of the WTO Agreements on TBT and SPS

2. PURPOSE & SCOPE:

This procedure is to ensure that all national notification obligations under the WTO Agreements on TBT and SPS are fulfilled. This includes the need for all concerned parties to be made aware of the need to notify and of national interagency collaboration. The procedure is inclusive of the requirements with regard to timing, content and follow-up.

This procedure defines the actions that are required in order that national obligations for the submission of notifications to the WTO as stipulated in the WTO Agreements on TBT and SPS are fulfilled. This procedure is inclusive of all types of notifications stipulated in these agreements.

3. RESPONSIBILITY & AUTHORITY:

The terms of reference of the NNA are given in Annex III.i.

Mr Parviz Emomov, Chief Specialist, WTO Affairs Division, Ministry of Economic Development and Trade, will implement this SOP.

Mr. Anvar Ibragimov, Head of WTO Affairs Division, will finalize and submit the SOP for approval to Mr.Farrukh Hamraliev, Minister of Economic Development and Trade.

4. DEFINITIONS:

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;
- (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 labeling requirements directly related to food safety.

Sanitary measures are used to cover regulations whose basic objective is to ensure food safety, or to prevent animal-borne pests and diseases from entering a country. Where the objective of the regulation is to ensure that imported plant varieties do not bring into a country plant-borne pests and diseases, they are referred to as phytosanitary measures.

Technical regulation - Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

Conformity assessment procedures - Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

5. DETAILS:

5.1 Creating awareness about notification obligations

The regulatory agencies and ministries of the government responsible for sanitary and phytosanitary measures, technical regulation and conformity assessment shall be made aware of notification requirements through appropriate means. For that the NNA shall maintain regular communications with all line agencies through circulating reminders, conducting briefings and acting upon information that indicates that a notification is required. All agencies shall be required to inform the notification authority of any new or changed technical regulations.

5.2 Compiling information on new developments

The NNA shall monitor all domestic developments on sanitary and phytosanitary measures, technical regulations, conformity assessment procedures, mutual recognition agreements, changes in the administration and implementation of the SPS and TBT Agreements. It is important that information from line agencies and stakeholders be obtained at a stage that is early enough to meet the requirements for notification to be made at a stage where comments can be incorporated and at least six months before implementation

5.3 Drafting and Submitting Notifications to the WTO Secretariat

Notifications shall be made in the specified format according to the following:

- Decisions and Recommendations adopted by the WTO Committee on TBT since January 1995 (G/TBT/1/Rev.10)
- Recommended Procedures for implementing the Transparency Obligations of the SPS Agreement (Article 7) as of 1 December 2008 (G/SPS/7/Rev.3)

These two documents are continually revised and the latest versions of these documents shall be used by the NNA.

The management of the notification authority shall cooperate with the relevant regulatory authority to draft the notification. A process for assigning responsibility for formal approval of the text of notifications before submission shall be developed in the Ministry of Economic Development and Trade and be in place. The NNA shall obtain and maintain copies of the full text of the new regulation or the proposed changes and other information in anticipation of requests by other WTO Members. The notification shall contain particulars of the source (preferably a website) containing full texts and other information. Upon approval the notification shall be transmitted to the WTO Secretariat in electronic form in English.

5.4 Responding to requests for texts

The number of requests for texts would be minimized in case there is a website that has been made available in the notification. In case the request is for information not available at the notification authority, the request shall be forwarded to the line agency responsible for the SPS measure, technical regulation or conformity assessment procedure. The NNA shall request the line agency to inform it when the text has been forwarded to the requesting party. To simplify the response procedure the NNA shall collect all TBT and SPS related information in advance.

5.5 Responding to comments on notifications and requests for justification

The NNA shall coordinate responses to comments on notifications. This will include:

- communicating with the agency(ies) responsible for the subject of notification
- assisting to formulate replies in consultation with responsible parties.

6. RECORDS:

The NNA shall maintain records on:

- Notifications issued
- Communications with other Members of the WTO in connection with notifications

- Texts of SPS measures, regulations and conformity assessment procedures subject to notification.

These records constitute formal government documents and it is essential that a secure records management system be in place. A database to maintain such records shall be established.

7. REFERENCES:

1. *The WTO Agreement on Technical Barriers to Trade (TBT).*
2. *The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS).*
3. *Decisions and Recommendations adopted by the WTO Committee on TBT since January 1995 (G/TBT/1/Rev.10).*
4. *Recommended Procedures for implementing the Transparency Obligations of the SPS Agreement (Article 7) as of 1 December 2008 (G/SPS/7/Rev.3).*
5. ITC Bulletin No. 82/2008, *Manual of Model Procedures and Guidance Notes for the Implementation of the WTO Agreement on TBT.*

Annex III.i. Terms of reference of the NNA

The National Notification Authority is responsible for:

1. Ensuring proposed SPS regulations which are not based on international standards and which may have a significant effect on trade of other WTO Members are published early to allow for comments.
2. Notifying other WTO Members through the Secretariat of proposed SPS regulations, using the appropriate notification forms.
3. Providing copies of proposed SPS regulations on request.
4. Ensuring that comments on proposed SPS regulations from other WTO Members are handled correctly.
5. Ensuring proposed technical regulations and conformity assessment systems which are not based on international standards and which may have a significant effect on trade of other WTO Members are published early to allow for comments.
6. Notifying other WTO Members through the Secretariat of proposed technical regulations and conformity assessment procedures, using the appropriate notification forms.
7. Providing copies of proposed technical regulations and conformity assessment procedures on request.
8. Ensuring that comments on proposed technical regulations and conformity assessment procedures from other WTO Members are handled correctly.
9. Ensuring that when an agreement has been reached with any other country or countries on issues related to technical regulations, standards or conformity assessment procedures which may have a significant effect on trade, other WTO Members have been notified through the Secretariat.

Annex IV - SOP for responding to notifications from WTO members

1. TITLE: Responding to Notifications made by WTO Members

2. PURPOSE & SCOPE:

The purpose of this procedure is to assist domestic stakeholders to obtain timely information on changes affecting export trade to exercise their rights including the right to comment and seek justification on notifications made by other Members.

This procedure defines the responsibilities and activities that are required to effectively respond to notifications made by WTO Members, specifically when these notifications have a direct impact on their exports.

3. RESPONSIBILITY & AUTHORITY:

The terms of reference of the NNA are given in Annex IV.i.

Mr Parviz Emomov, Chief Specialist, WTO Affairs Division, Ministry of Economic Development and Trade, will implement this SOP.

Mr. Anvar Ibragimov, Head of WTO Affairs Division, will finalize and submit this SOP for approval to Mr. Farrukh Hamraliev, Minister of Economic Development and Trade.

4. DEFINITIONS:

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;

(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 labeling requirements directly related to food safety.

Sanitary measures are used to cover regulations whose basic objective is to ensure food safety, or to prevent animal-borne pests and diseases from entering a country. Where the objective of the regulation is to ensure that imported plant varieties do not bring into a country plant-borne pests and diseases, they are referred to as phytosanitary measures.

Technical regulation - Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

Conformity assessment procedure - Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

5. DETAILS:

5.1 Receiving incoming notifications

The NNA shall subscribe to the WTO mailing list to receive all notifications related to the operation of the TBT and SPS Agreements electronically by email. It shall examine and classify these notifications as follows:

Type i

New or changes to technical regulations, conformity assessment procedures and SPS measures;

Type ii

Notification of statements of implementation, new recognition agreements and other administrative matters.

5.2 Disseminating notifications

The NNA shall compile and disseminate a summary of notifications of interest to Tajikistan to all on the distribution list established in accordance with paragraph 5.3. The recommended format of the summary is in Annex IV.ii. Distribution shall be by email. The recipients shall be reminded that they could seek assistance in obtaining full texts of proposed regulations and procedures and of the rights to send comments or seek justification. The contact particulars of the NNA shall be included in all communication.

The frequency of distribution shall be at least once in two weeks. In case the notifications are of critical importance in the opinion of the NNA manager, the full notification shall be circulated to the identified interested parties and the full text of the proposed changes obtained.

5.3 Establishment and maintenance of a distribution list

The NNA shall establish an initial list of parties that would require information provided in WTO/TBT and WTO/SPS notifications from the following: trade associations, major trading companies, government agencies engaged in trade and regulatory bodies, trade policy organizations, research organizations. It shall publicly announce periodically a general invitation to interested parties to register for inclusion in the list. It shall automatically include interested parties indicating an interest in receiving such information.

5.4 Responding to requests for further information on notifications

In the event that any stakeholder requests the full text of the notification or makes a request for draft technical regulations, conformity assessment procedures or SPS measures, the NNA shall provide assistance by locating and contacting the source of the documents or the relevant national enquiry point. Often such documents are available for download and the NNA shall assist in this. Some documents may require translation. The party requesting the document shall be informed of this issue and urged to seek its own resources for translation.

5.5 Submitting comments or seeking justification on notifications

In case interested parties within the country raise concerns on the notifications, the NNA shall coordinate the follow-up actions. This would include the submission of comments and seeking justification for the measure introduced. The NNA can take the following actions to assist:

- hold discussions with stakeholders,
- assist in formulating submissions and forward these to the relevant WTO Member, and
- provide advice on the obligations and rights under the Agreement.

In some cases there will be differing opinions within Tajikistan and the NNA shall coordinate efforts to reach a consensus.

The submissions made are national decisions, arrived at by the government after consultation with stakeholders.

5.6 Follow-up to an unsatisfactory response to comments

The NNA shall keep track of the submission and forward responses received to stakeholders. In the event that there is no response or the response is unsatisfactory, the NNA shall coordinate the follow-up.

The follow-up shall include the options of making further comments, requesting bilateral consultations and raising the matter at the TBT or SPS Committee. The decision would depend on the severity of the concern. In critical cases, it could be treated as a dispute.

5.7 Notifications of Type ii

These notifications shall be brought to the attention of the Working Party on the Transparency Provisions of the WTO Agreements on TBT and SPS.

The process flow for responding to notifications is given in Annex IV.iii.

6. RECORDS:

The following records shall be maintained:

- records and decisions of domestic consultations,
- comments on notifications submitted by WTO Members, responses to any submissions to WTO Members and other communications,
- copies of foreign technical regulations, conformity assessment procedures, SPS measures and other materials obtained as a result of enquiries.

The above records will provide a data source for future enquiries.

7. REFERENCES:

1. *The WTO Agreement on Technical Barriers to Trade (TBT).*
2. *The WTO Agreement on the Application of Sanitary and Phytosanitary measures (SPS).*
3. *Decisions and Recommendations adopted by the WTO Committee on TBT since January 1995 (G/TBT/1/Rev.10).*
4. *Recommended Procedures for implementing the Transparency Obligations of the SPS Agreement (Article 7) as of 1 December 2008 (G/SPS/7/Rev.3).*
5. ITC Bulletin No. 82/2008, *Manual of Model Procedures and Guidance Notes for the Implementation of the WTO Agreement on TBT.*
6. ITC Bulletin No.81/2008, *Information Retrieval on Sanitary and Phytosanitary Measures.*
7. ITC Bulletin No.72/2002, *Information Retrieval on Standards, Technical Regulations and Conformity Assessment.*

Annex IV.i - Terms of reference for NNA

The NNA is responsible for the following:

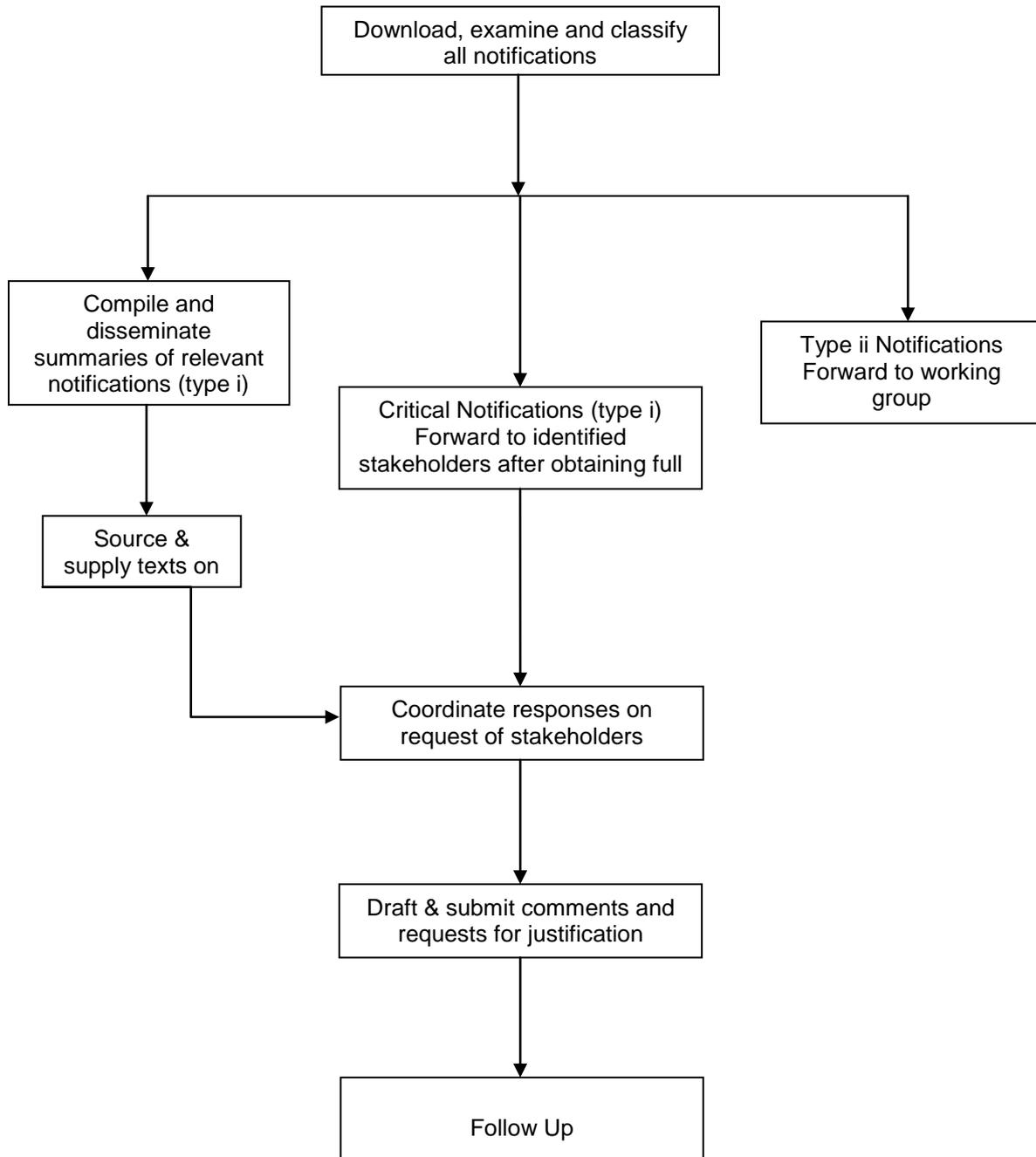
1. Tracking notifications on TBT and SPS from WTO Members and identifying those of interest to Tajikistan.
2. Establishment of a distribution list of parties interested in TBT/SPS notifications and updating of this list.
3. Disseminating TBT/SPS notifications to interested parties.
4. Responding to requests for further information on TBT/SPS notifications.
5. Holding discussions with stakeholders to arrive at a national consensus for comments on notifications of interest to Tajikistan.
6. Submitting comments on notifications to the notifying Member.
7. Follow-up to unsatisfactory responses to comments on notifications.
8. Submitting Type ii notifications to the Working Group on the Transparency Provisions of the WTO Agreements on TBT and SPS.

Annex IV.ii - Contents of Summary of Notifications

The Summary should contain the following information extracted from the official notification form:

- i. The reference no. and country making the notification
- ii. Products covered and description of contents
- iii. Period for comments

Annex IV.iii - Process flow for responding to notifications



Annex V - SOP FOR RESPONDING TO ENQUIRIES (TBT)

1. TITLE: Responding to Enquiries (TBT)

2. PURPOSE & SCOPE:

The purpose of this procedure is to fulfill national obligations of the enquiry point as listed in articles 10.1 and 10.3 of the TBT Agreement.

This procedure defines the responsibilities undertaken by the enquiry point in responding to enquiries from other WTO Members.

3. RESPONSIBILITY & AUTHORITY:

The terms of reference of the NEP for TBT are given in Annex V.i.

Mr. Firdavs Karimov, Senior Specialist of the IT Department in Tajikstandart, is responsible for implementing this SOP.

Mr. Anvar Ibragimov, Head of WTO Affairs Division of the Ministry of Economic Development and Trade, and Mr. Firdavs Karimov, as the NEP on TBT, are responsible for preparing and submitting this SOP for approval.

Mr. Bakhtiyar Shukurov, Director of the Agency of Standardization, Metrology, Certification and Trade Inspection (Tajikstandart) under the Government of the Republic of Tajikistan, will approve this SOP.

4. DEFINITIONS:

Technical regulation - Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

Standard - Document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

Conformity assessment procedure - Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

5. DETAILS:

5.1 Establishing contacts with regulatory bodies

To ensure that enquiries received can be answered promptly and accurately, the NEP on TBT shall contact regulatory bodies to nominate a contact person for this purpose. This will lead to the establishment of a network of the regulatory bodies responsible for technical regulations and conformity assessment procedures. The NNA shall specify the obligations of the contact person with respect to the provision of information to enable responding to enquiries, in a letter with specific terms of reference.

5.2 Receiving and responding to enquiries

The NEP shall acknowledge receipt of enquiries, review and classify them into three types as detailed below:

- Type i: Enquiries from other WTO Members on import requirements.

- Type ii: Enquiries from domestic industry on other WTO Members' requirements.
- Type iii: Enquiries on domestic requirements originating from within the country.

The NEP has prime responsibility for answering Type i enquiries.

This type of enquiry requires an immediate and direct response to the query, if the enquiry point is capable of responding to the enquiry from its knowledge and data available.

In cases when the enquiry requires information not available at the enquiry point, then the enquiry point shall identify and seek assistance of the relevant agency to obtain the required information.

The enquiry point shall develop a repository of information over time, which will facilitate the answering of an increasing number of enquiries directly.

The NEP shall refer Type ii enquiries to the "Service Bureau for Tajik exporters" at the Union of Businessmen and Exporters of Tajikistan.

The NEP shall not answer Type iii enquiries and shall refer the party making the request to the regulatory authority or other organization responsible for the measure.

The process flow of receiving and responding to enquiries is described in Annex V.ii.

Responding to enquiries shall normally be provided within five working days. If this is not possible, the request for documentation or information shall be acknowledged within that period and an estimate given of the time required for providing the requested information or documentation.

6. RECORDS:

- The enquiry point shall keep track of the progress of Type i enquiries. Completion of responses will be recorded in a register (Annex V.iii).

The tracking system will commence from the simple entries in the register and further could be shifted to a more elaborate database in case of an increasing number of enquiries.

- The enquiry point shall maintain records of all responses made to requests for information. The collection and compilation of such information will result in the development of a ready resource of data enabling quick response to similar future enquiries. The data could be maintained in structured computerized records. This will facilitate quick and easy search and retrieval.

7. REFERENCES:

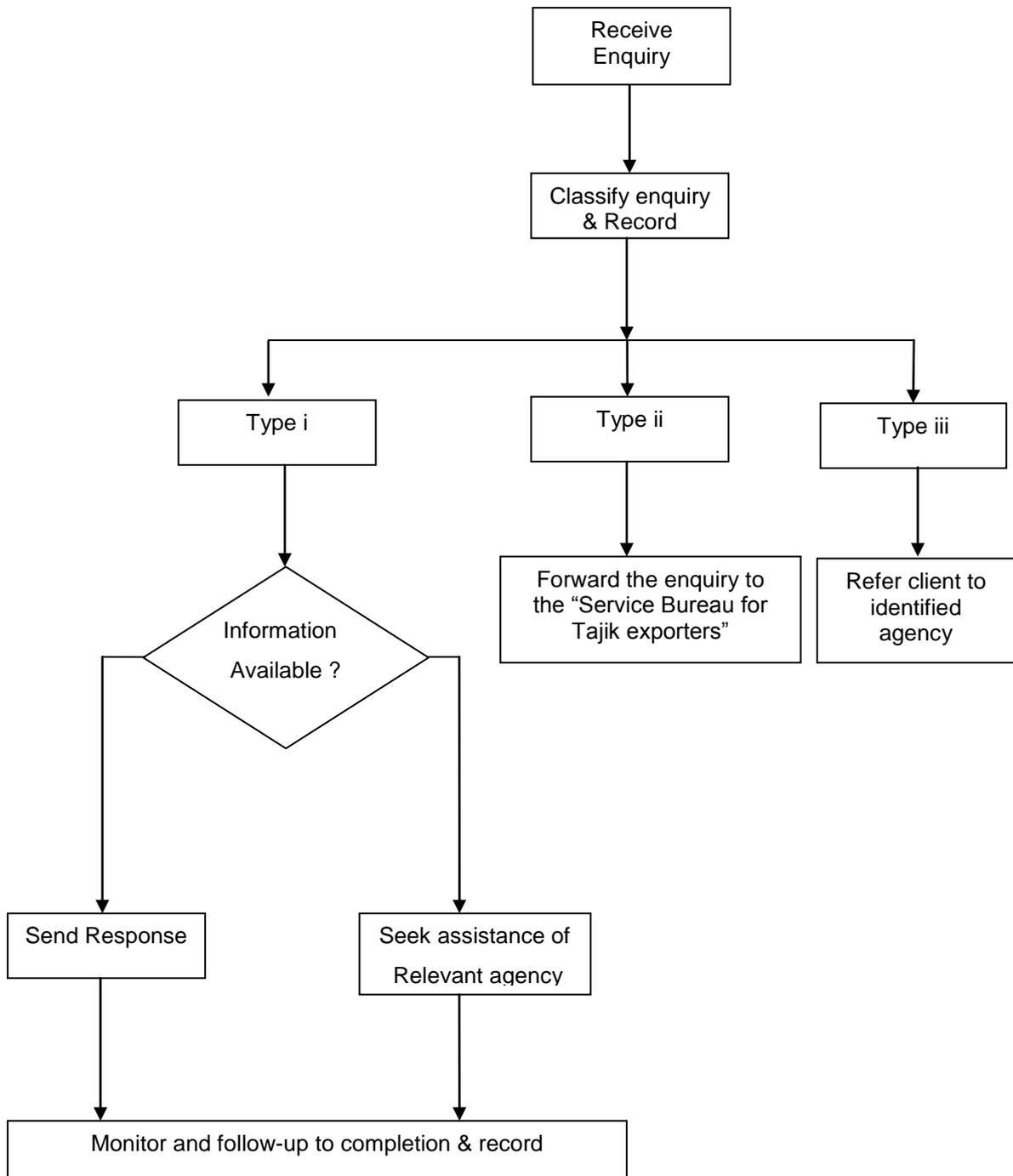
1. *The WTO Agreement on Technical Barriers to Trade (TBT).*
2. ITC Bulletin No.82/2008, *Manual of Model Procedures and Guidance Notes for the Implementation of the WTO Agreement on TBT.*
3. *Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995 (G/TBT/1/Rev.10).*
4. ITC Bulletin No.72/2002, *Information Retrieval on Standards, Technical Regulations and Conformity Assessment Procedures.*

Annex V.i - Terms of reference for NEP on TBT

The National Enquiry Point is responsible for answering all reasonable questions and providing relevant information or documents, as appropriate, regarding:

1. Any technical regulations, standards and conformity assessment procedures adopted or proposed within the country.
2. The membership and participation of the country, or of relevant bodies within its territory, in international and regional standardizing bodies and conformity assessment systems.
3. The membership and participation of the country in bilateral and multilateral arrangements within the scope of the TBT Agreement.
4. The location of notices published pursuant to the TBT Agreement or where such information can be obtained.

Annex V.ii - Process Flow



Annex V.iii - Format for recording enquiries

The basic register records the essential details of an enquiry and records the status of the response. This register could be in a physical log or be maintained as a computerized record.

No	Date received	Client	Description	Date closed	References & records

Annex VI - SOP for responding to enquiries from WTO members – SPS

1. TITLE: Responding to Enquiries (SPS)

2. PURPOSE & SCOPE:

The purpose of this procedure is to fulfill national obligations of the enquiry point as listed in Annex B of the SPS Agreement.

This procedure defines the responsibilities undertaken by the enquiry point in responding to enquiries from other WTO Members.

3. RESPONSIBILITY & AUTHORITY:

The terms of reference of the NEP for SPS are given in Annex VI.i.

Mr. Saidnuriddin Bakhriddinov, Senior Specialist of the Department of the Economic Development and Forecasting of the Ministry of Agriculture of the Republic of Tajikistan, is responsible for implementing this SOP.

Mr. Anvar Ibragimov, Head of WTO Affairs Division of the Ministry of Economic Development and Trade, and Mr. Saidnuriddin Bakhriddinov, as the NEP on SPS, are responsible for preparing and submitting this SOP for approval.

Mr. Kosim Kosimov, the Minister of Agriculture of the Republic of Tajikistan, will approve this SOP.

4. DEFINITIONS:

“Sanitary or phytosanitary measure (SPS) - Any measure applied:

(a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease carrying organisms or disease-causing organisms;

(b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;

(c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or

(d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

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 labeling requirements directly related to food safety”.

Sanitary measures are used to cover regulations whose basic objective is to ensure food safety, or to prevent animal-borne pests and diseases from entering a country. Where the objective of the regulation is to ensure that imported plant varieties do not bring into a country plant-borne pests and diseases, they are referred to as phytosanitary measures.

5. DETAILS:

5.1 Establishing contacts with regulatory bodies

To ensure that enquiries received can be answered promptly and accurately, the NEP on SPS shall contact regulatory bodies to nominate a contact person for this purpose. This shall lead to the establishment of a network of the regulatory bodies responsible for SPS measures. The NEP shall specify the obligations of the contact person with respect to the provision of information to enable responding to enquiries, in a letter with specific terms of reference.

5.2 Receiving and responding to enquiries

The NEP shall acknowledge receipt of enquiries, review and classify them into three types as detailed below:

- Type i: Enquiries from other WTO Members on import requirements.
- Type ii: Enquiries from domestic industry on other WTO Members' requirements.
- Type iii: Enquiries on domestic requirements originating from within the country.

The NEP has prime responsibility for answering Type i enquiries.

This type of enquiry requires an immediate and direct response to the query, if the enquiry point is capable of responding to the enquiry from its knowledge and data available.

In cases when the enquiry requires information not available at the enquiry point, then the enquiry point shall identify and seek assistance of the relevant agency to obtain the required information.

The enquiry point shall develop a repository of information over time, which will facilitate the answering of an increasing number of enquiries directly.

The NEP shall refer Type ii enquiries to the "Service Bureau for Tajik exporters" at the Union of Businessmen and Exporters of Tajikistan.

The NEP shall not answer Type iii enquiries and shall refer the party making the request to the regulatory authority or other organization responsible for the measure.

The process flow of receiving and responding to enquiries is described in Annex VI.ii.

Responding to enquiries shall normally be provided within five working days. If this is not possible, the request for documentation or information shall be acknowledged within that period and an estimate given of the time required for providing the requested information or documentation.

6. RECORDS:

- The enquiry point shall keep track of the progress of Type i enquiries. Completion of responses will be recorded in a register (Annex VI.iii).

The tracking system shall commence from the simple entries in the register and further could be shifted to a more elaborate database in case of an increasing number of enquiries.

- The enquiry point shall maintain records of all responses made to requests for information. The collection and compilation of such information will result in the development of a ready resource of data enabling quick response to similar future enquiries. The data could be maintained in structured computerized records. This will facilitate quick and easy search and retrieval.

7. REFERENCES:

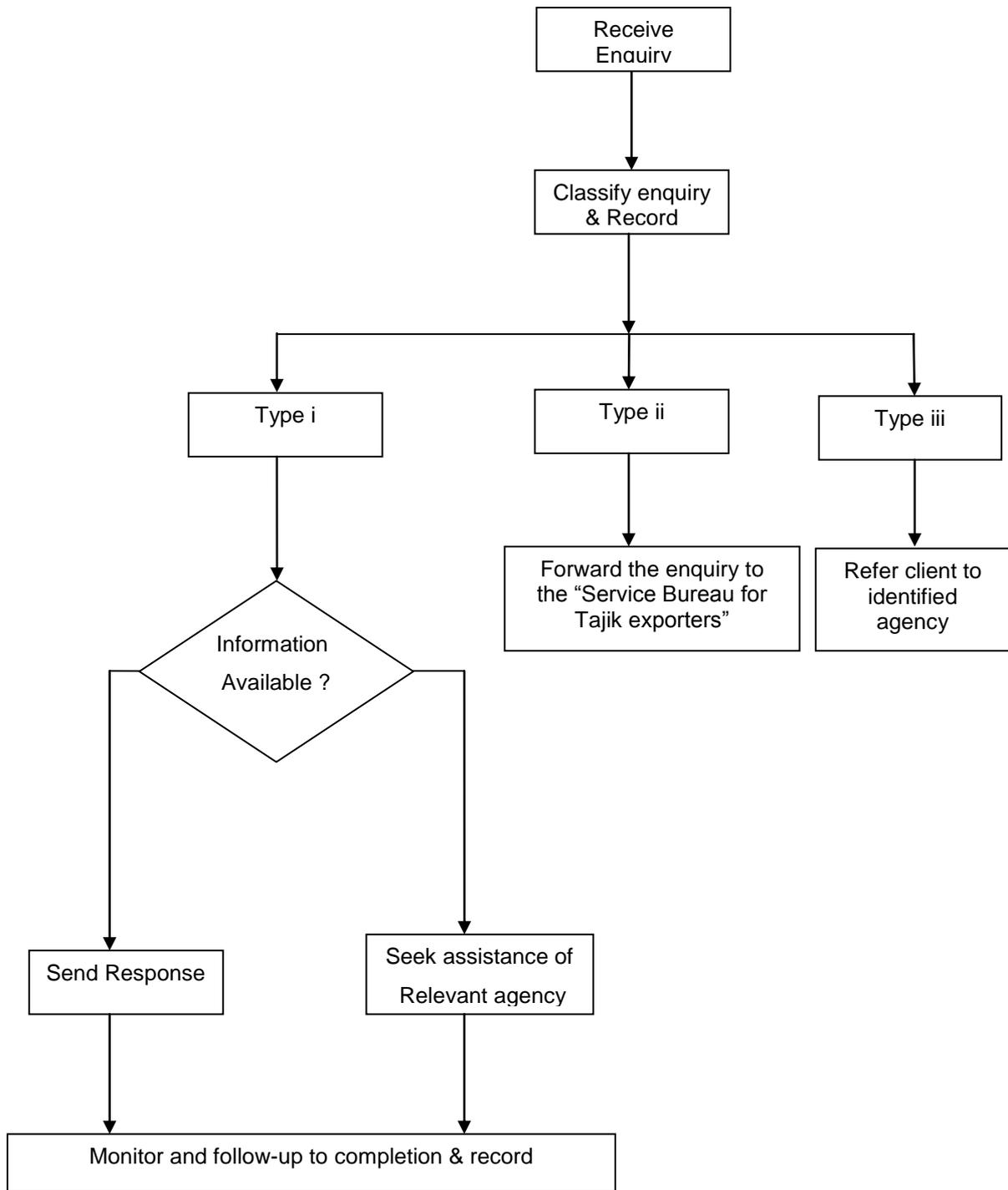
1. *The WTO Agreement on the Application of the Sanitary and Phytosanitary Measures (SPS).*
2. ITC Bulletin No.82/2008, *Manual of Model Procedures and Guidance Notes for the Implementation of the WTO Agreement on TBT.*
3. Recommended procedures for implementing the transparency obligations of the SPS Agreement (article 7) (G/SPS/7/Rev.3, 20 June 2008).
4. ITC Bulletin No. 81/2008, *Information Retrieval on Sanitary and Phytosanitary Measures.*

Annex VI.i - Terms of reference of NEP for SPS

The National Enquiry Point is responsible for answering all reasonable questions and providing relevant documents regarding:

6. Any sanitary or phytosanitary regulations adopted or proposed within the country.
7. Any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within the country.
8. Risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary and phytosanitary protection.
9. The membership and participation of the country, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems.
10. The membership and participation of the country in bilateral and multilateral agreements and arrangements within the scope of the SPS Agreement.
11. The texts of any agreements and arrangements mentioned in point 5 above.

Annex VI.ii - Process Flow



Annex VI.iii - Format for recording enquiries

The basic register records the essential details of an enquiry and records the status of the response. This register could be in a physical log or be maintained as a computerized record.

No	Date received	Client	Description	Date closed	References & records

Annex VII - SOP for responding to enquiries from Tajik exporters

1. TITLE: Provision of technical information to Tajik exporters

2. PURPOSE & SCOPE:

The purpose of this procedure is to provide assistance to domestic exporters in obtaining information on technical regulations, standards, conformity assessment procedures and SPS measures in export markets.

The scope of this procedure is to define the responsibilities and activities of the “Service Bureau for Tajik exporters” in the Union of Businessmen and Exporters of Tajikistan.

3. RESPONSIBILITY & AUTHORITY:

The terms of reference of the Service Bureau are given in Annex VII.i.

Mr. Takdir Sharifov, Deputy of Chief, Union of Businessmen and Exporters of Tajikistan, is responsible for the “Service Bureau for Tajik exporters”, and for implementing this SOP.

Mr. Takdir Sharifov is responsible for preparing this SOP and submitting it for approval to Mr. Nekroy Zabirov, Chairman of Union of Businessmen and Exporters of Tajikistan.

4. DEFINITIONS:

Technical regulation - Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

Standard - Document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

Conformity assessment procedure - Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

Sanitary or phytosanitary measure (SPS) - Any measure applied:

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

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 labeling requirements directly related to food safety”.

Sanitary measures are used to cover regulations whose basic objective is to ensure food safety, or to prevent animal-borne pests and diseases from entering a country. Where the objective of the

regulation is to ensure that imported plant varieties do not bring into a country plant-borne pests and diseases, they are referred to as phytosanitary measures.

5. DETAILS:

5.1 Establishing sources of information

The Service Bureau will keep a database of the national enquiry points on TBT and SPS, obtainable from the following:

- List of National Enquiry Points for TBT (G/TBT/ENQ/38/Rev.1 of 8 July 2011)
- List of National Enquiry Points for SPS (G/SPS/ENQ/26 of 11 March 2011)

These documents are continually revised and the Service Bureau will use the latest revisions.

The Service Bureau will also use the sources of information detailed in the following documents;

- Information Retrieval on Standards, Technical Regulations and Conformity Assessment Procedures (ITC Bulletin No.72/2002).
- Information Retrieval on Sanitary and Phytosanitary Procedures (ITC Bulletin No.81/2008).

The Service Bureau will constantly update its sources of information on a continual basis and keep a database of these sources of information.

5.2 Receiving and recording enquiries

The Service Bureau will acknowledge receipt of enquiries, review and classify them into two types as detailed below:

- Type ii Enquiries from domestic industry on other WTO Members' requirements
- Type iii Enquiries on domestic requirements originating from within the country.

Type i enquiries come from WTO Members about technical requirements in Tajikistan and go to the NEPs for TBT and SPS and do not come to the Service Bureau.

The primary responsibility of the Service Bureau is to reply to Type ii enquiries.

An immediate response shall be provided if the Service Bureau is capable of responding to the enquiry from its knowledge and data available within the Bureau.

In cases when the enquiry requires information not available at the Bureau, then it will have to seek assistance from the enquiry point of the WTO Member in the exporting country or other relevant sources of information (see 5.1) to obtain the required information.

The Service Bureau shall develop a repository of information over time to answer an increasing number of enquiries directly.

For Type iii enquiries, the party making the request will be referred to the regulatory authority or other responsible organization by the Service Bureau.

6. RECORDS:

The Service Bureau shall keep track of the progress of all enquiries. Completion of responses will be recorded in the register (Annex VII.iii).

The tracking system will commence from the simple entries in the register (Annex VII.iii) and further could be shifted to a more elaborate database in case of an increasing number of enquiries.

The Service Bureau will maintain records of all responses made to requests for information. The collection and compilation of such information will result in the development of a ready resource of data enabling quick response to similar future enquiries. The data could be maintained in structured computerized records. This will facilitate quick and easy search and retrieval.

The flow chart for dealing with enquiries is given in Annex VII.ii.

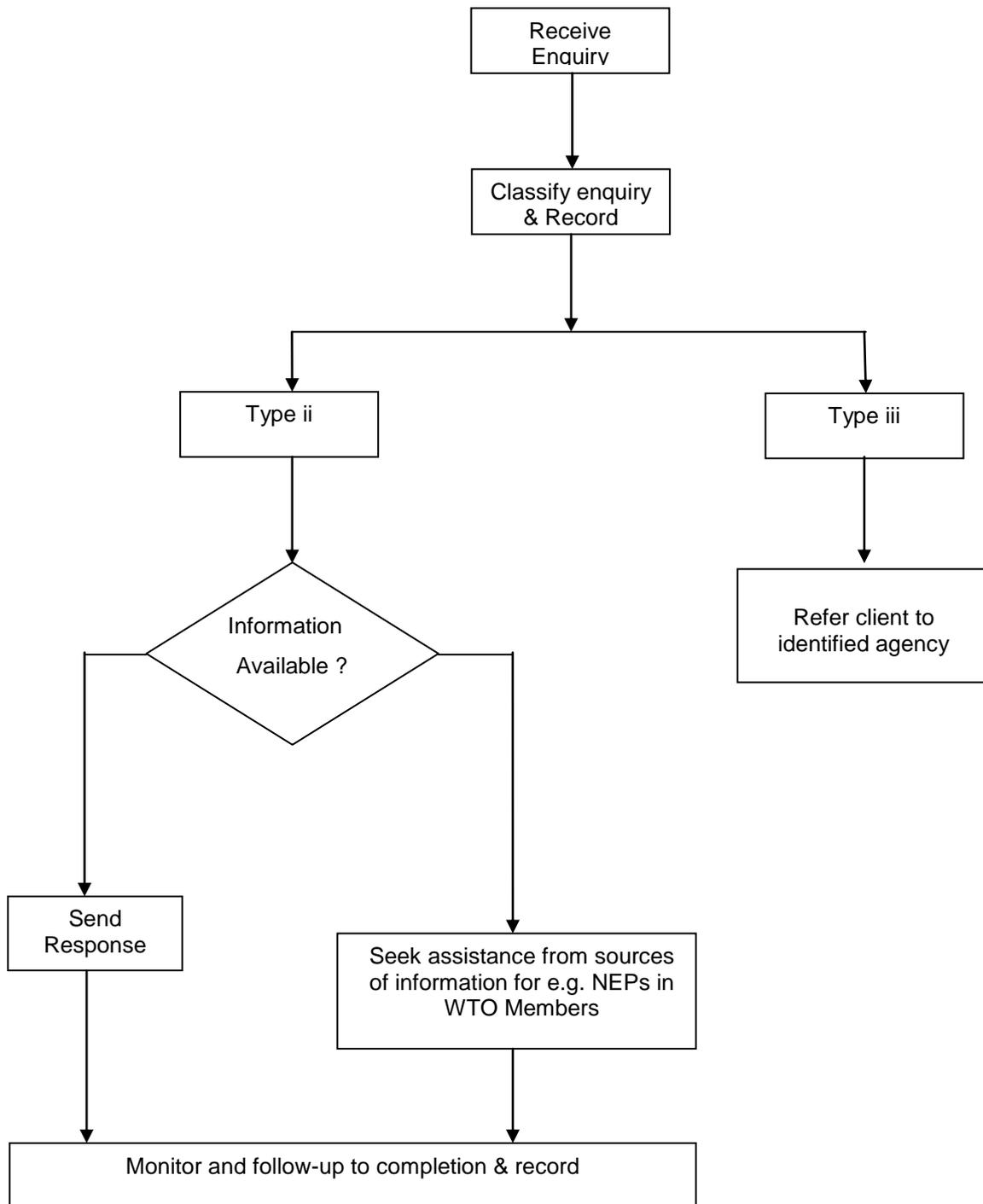
7. REFERENCES:

1. *The WTO Agreement on Technical Barriers to Trade (TBT).*
2. *The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS).*
3. ITC Bulletin No.81/2008, *Information Retrieval on Sanitary and Phytosanitary Measures.*
4. ITC Bulletin No.72/2002, *Information Retrieval on Standards, Technical Regulations and Conformity Assessment.*
5. ITC Bulletin No.82/2008. *Manual of Model Procedures and Guidance Notes for the Implementation of the WTO Agreement on TBT.*
6. *List of National Enquiry Points for TBT (G/TBT/ENQ/38/Rev.1 of 8 July 2011).*
7. *List of National Enquiry Points for SPS (G/SPS/ENQ/26 of 11 March 2011).*

Annex VII.i - Terms of reference of the Service Bureau

The Service Bureau is responsible for answering all reasonable queries regarding technical requirements (standards, technical regulations, conformity assessment procedures, SPS measures) in export markets of interest to Tajikistan.

Annex VII.ii - Process Flow



Annex VII.iii - Format for recording enquiries

The register records the essential details of an enquiry and the status of the response. This register could be in a physical log or be maintained as a computerized record.

No	Date received	Client	Description	Date closed	References & records

Annex VIII - Model Infrastructures for Conformity Assessment and Related Activities

1. Essential Services

Every country, without exception, requires a testing and measurement (including calibration) capability commensurate with its needs with respect to industrial development, nature of the economy, legal system and trade interests. It also needs arrangements for the certification of compliance with the needs of the markets into which it wishes to sell its products, be that domestic or foreign.

There is therefore a need for testing and measurement laboratories and certification and inspection bodies to provide these services and these services must be readily accessible to the local users.

Governments may use testing and measurement for:

- enforcement of or compliance with regulations;
- export/import controls;
- consumer protection;
- health and safety management;
- protection of the environment;
- forensic investigations;
- government purchasing.

Industry uses testing for:

- quality assurance for products and services;
- quality control in manufacturing;
- risk assessment and risk management;
- compliance with regulations;
- failure investigations;
- resolutions of disputes and complaints;
- advertising data.

For whatever purpose, it is essential that the results of such activities are technically valid and be seen to be so.

It is also important to recognize that not all testing and measurement is associated with conformity assessment (assessing the degree to which a product or service meets customers' requirements), even though it is conformity assessment that often attracts the most attention, particularly with respect to trade matters. As illustrated above, there are many situations where testing and measurement is used to determine factual data for other purposes.

2. International Principles

For its own purposes a government can, of course, organize its systems in any way that it chooses. However, in recent times, there has been a trend to defining fundamental attributes that all such testing and measurement systems must exhibit if they are to have credibility outside their own borders.

There are two issues that must be addressed for credibility – the technical level and the system level.

(a) Technical credibility

The elements of technical credibility are:

scientific validity of the measurements
 technical competence of personnel
 methods using published standards and proven techniques

(b) System credibility

System credibility requires that it be:

impartial
 objective
 transparent
 non-discriminatory
 well managed
 financially viable.

3. Possible National System Models

There are two distinct categories of functions:

- (a) provision of testing, measurement and conformity assessment services (by laboratories, inspection bodies and certification bodies) and
- (b) underpinning services (documentary standards, physical standards and supervisory services such as accreditation and market surveillance by regulatory authorities).

For the purposes of this discussion, the category of *service providers* ((a) above) are organizations providing, usually on commercial terms, laboratory testing, instrument calibration, product inspection and systems certification (ISO 9000, ISO 14000, HACCP etc.) and certification of products with conformity to performance, regulatory or safety requirements.

The *underpinning services* ((b) above) are national standards of measurement (physical standards), legal metrology (fair trading), documentary standards and supervision of the system.

There are three basic options for national arrangements for the provision of such services with many variations in the exact details of how the system is organized. The basic options are to provide:

- (1) all such services through one or more government departments, ministries or entities;
- (2) some services through government agencies and have the government administration appoint (designate) private sector institutions to undertake the remainder, on a non-competitive basis;
- (3) some services through government agencies and encourage private sector competition for the remainder.

The reality is that there is a multitude of possible combinations but to attain credibility and recognition of the system, the principles, outlined in section 2 above, must be respected. These do impose some constraints as to what combinations of activities within the same institution are acceptable and those that are not.

It is also pertinent to note that, for most industrialized countries, their systems for metrology, standards, conformity assessment and accreditation evolved over many years. They were not planned as a coherent whole and there are a number of controversial aspects to many existing systems throughout the world. However, the development of international standards in these areas has encouraged change in many countries. The evolution is continuing.

One issue that can be of particular concern is national systems for supervision.

The traditional approach adopted by almost all countries in the past was to establish government inspectorates either within ministries or regulatory authorities. It was, and still is in certain economies, very common for each industry or product sector to be completely independent of the others, having different requirements, practices and processes tailored to meet their own perceptions of their particular needs. These services have been fine-tuned over time to satisfy those needs and, in the domestic environment, these are matters only for the particular government. Sometimes all elements of the inspection or supervisory system are provided by an official inspectorate, while, in other situations, some or all of the activities are provided through licensing or contracting private sector bodies. This latter development may involve an accreditation process or it may simply be by designation or appointment.

However, in the context of trade and the WTO rules, many of these domestic arrangements constitute very real trade barriers. They are frequently discriminatory and non-transparent and do not conform to international standards.

It can also be argued that these very varied arrangements lead to significant inefficiencies even within the domestic market. Where different government agencies provide different forms of recognition to private sector bodies, there is also a potential for a great deal of market confusion. To the market, one form of government recognition is as good as another but if there are different standards then the risk is that the whole system will be brought into question particularly if a particular organisation is required to comply with different regulatory processes for different sectors of its business or operations. This can add significant costs to such a business.

3.1 Model (1) – Complete Government Monopoly

This type of arrangement is only found in developing countries and transition economies, usually for reasons of scarcity of resources. Often, all services are provided by a single institution. Such systems are, however, inherently inefficient and suffer from many conflicts of interest (real and perceived).

While the service providers may be technically quite competent, they can never really satisfy all the principles for systems (transparency, non-discrimination etc.) outlined above. As the major commercial providers in their countries of testing and certification, with great market advantages, they cannot be regarded as “impartial”. Within their own structures, there is clear conflict between supervision and the services being supervised. Transparency is also an issue for most bodies in this category in that their operations are not subject to audit or evaluation and they operate under their own discretion.

It is also pertinent to note that as countries develop, they invariably begin to separate the various activities into distinct and independent bodies. This can be seen in the last few years in Sweden, South Africa and Malaysia for instance.

3.2 Model (2) – Government Designation of Participating Bodies

The normal practice with this model is that bodies designated by the government or particular regulatory authorities undertake testing and certification activities. Other functions are undertaken by government agencies.

The problem here is that such designation is usually a very non-transparent arrangement as the basis for the designation is usually not known and is made at the discretion of the government. When applied to imported goods there may also be a problem with the WTO rules.

3.3 Model (3) – Shared between Government and Private Sector

This is by far the most common type of system in the developed countries. However it is also the most complex with quite different combinations of functions being found. The following table illustrates some of the various ways in which these functions are provided through a combination of public and private bodies:

Function	Role of Government	Comments
Measurement standards	Always gov't. May delegate special measurements to specialized centres of excellence.	Almost never a private sector activity. Sometimes NMIs also operate accreditation bodies but as these institutions increasingly seek accreditation themselves, separation becomes inevitable.
Legal metrology	Always gov't. May contract routine verifications to private sector.	Contract conditions must be transparent and open. Accreditation may be used to ensure competence of the service providers.
Documentary standards (voluntary standards)	Sometimes gov't, but often a private body endorsed by gov't.	Such bodies often occupy a position of privilege in the provision of testing and certification services.
Testing & measurement	Gov't facilities usually restricted to specialized gov't work. Usually try not to compete with private sector.	Recent trend for governments to outsource routine testing work to private sector.
Inspection	Public health & safety usually gov't. May contract some to private sector. Others private sector.	Also trend to outsource routine inspection, particularly in engineering field.
Certification	In developing economies often gov't activity but in developed economies most often private sector. Frequently owned by voluntary standards bodies.	Significant possibilities for conflicts of interest when body provides both national documentary standards and certification as a commercial activity.
Function	Role of Government	Comments
Accreditation	May be either gov't or private sector. For general acceptance some gov't endorsement necessary particularly for trade purposes.	General agreement that an accreditation body cannot belong to an organization that undertakes any function subject to accreditation.
Other supervision	Regulatory authorities (gov't) and trade associations (private).	Market surveillance almost always undertaken by regulatory bodies. Production surveillance often delegated to private bodies. Non-regulated products often supervised by trade associations or commercial bodies.

In domestic markets there is a strong trend for governments to encourage the private sector to provide conformity assessment and other related services that were once commonly performed by governments themselves in the belief that commercial, competitive services can be equally competent but more financially efficient. Some form of accreditation is applied to ensure that competence levels are maintained and meet community expectations.

Internationally, trade globalization has resulted in the development of various rules to bring a degree of discipline to the market. There is a preference for the use of international standards wherever possible; a requirement for measurement traceability to international standards of measurement; and the WTO has defined a set of principles to ensure fairness in the global market. In the WTO's Agreement on Technical Barriers to Trade (the TBT Agreement) the issue of conformity assessment is addressed to the extent that Member States are urged to accept conformity assessment undertaken in country of export and, while not requiring acceptance of conformity assessment be based on it, accreditation is specifically mentioned as one of the mechanism

