

**Committee on Sanitary and Phytosanitary Measures**

**SPECIAL AND DIFFERENTIAL TREATMENT**

Report by the Chairman to the General Council

1. Following the adoption by the SPS Committee of its report on special and differential treatment in June 2005 (G/SPS/35), the Committee has continued to maintain the issue of special and differential treatment as a standing item on the agenda of its regular meetings. At each meeting, the Committee has considered the proposals referred to it by the General Council, as well as the possible actions identified by the Committee to address some of the concerns underlying these proposals.
2. There has been some, albeit limited, progress made in consideration of one of the specific proposals, that is, the African Group's proposal regarding Article 9.2. At an informal meeting on 28 March 2006, a revision of this proposal was informally circulated by the African Group. The revised proposal sets out a procedure whereby a developing country Member that identifies specific problems in fulfilling the SPS requirements of an importing Member can request consultations with the aim of resolving the problems. The resolution can take the form of modifications of the measure, technical assistance or special and differential treatment, and the resolution should be reported to the SPS Committee. The revised proposal indicates that any technical assistance provided to resolve the trade problems would be fully funded, so as to avoid financial obligations on the part of the recipient.
3. Although Members had not had any opportunity to consider this revision prior to the meeting, it was widely welcomed. However, many Members sought clarification as to how this proposal differed from the procedure adopted by the SPS Committee in October 2001, and extended in February 2006, to ensure transparency of responses to requests for special and differential treatment (G/SPS/33). In addition, several Members highlighted problems in relation to providing technical assistance on a fully-funded basis, noting the need to ensure commitment to projects on the part of beneficiaries. The African Group indicated that it was still considering revisions of other proposals, and other Members urged the African Group to make any further revisions available as soon as possible in a form that would permit their translation and timely consideration by the SPS Committee.
4. At the informal meeting on 28 March, the Committee also discussed some of the elements for addressing the underlying concerns of developing countries, and particularly those aimed at improving the predictability, timeliness and results of technical assistance relative to specific trade-related needs of developing country Members and in particular least-developed country Members. The Committee had a rich discussion of the difficulties in identifying with sufficient specificity the needs of developing countries and the use of various diagnostic tools that have been developed for this purpose.
5. There was little further discussion on this issue at the regular meeting of the SPS Committee on 29-30 March. However, a one-day workshop on the implementation of the SPS Agreement held on 31 March provided the opportunity to identify the many tools already available to help developing country Members make better use of the Agreement, and to suggest some practical steps that Members can take at the national level to significantly improve their ability to use the SPS Agreement to their benefit. Useful information on the experiences of Members, and in particular of least-

developed country Members, was provided by participants, along with concrete suggestions on how to resolve a number of problems relating to the timely identification of potential trade problems arising from the SPS requirements of trading partners. Specific suggestions were also made with respect to securing effective technical assistance to address difficulties.

6. Another informal meeting to consider the proposals on special and differential treatment was held on 24 May. At that meeting, the African Group informally circulated a further revision to their revised proposal on Article 9.2. The focus of the discussions was on the similarities and differences between the procedure being proposed by the African Group and the procedure already adopted by the SPS Committee in G/SPS/33. While a number of Members supported the revised African Group proposal, concerns were raised by others that it would require the provision of technical assistance until an identified problem had been resolved, whereas resolution may not be possible in all cases, for example if a disease were present in the exporting country that could not be eradicated. In addition, Members who are providers of technical assistance did not consider that fully-funded technical assistance was effective, as beneficiary contributions enhanced ownership of a technical assistance activity.

7. Members observed that the Procedure established in G/SPS/33 was not being used and suggested that the Committee should analyze why that was the case. One Member suggested that a mechanism was required to help developing country Members cope with the large number of notifications concerning changing requirements.

8. At the regular meeting of the SPS Committee held on 27-28 June, no Member took the floor to further discuss the outstanding proposals on special and differential treatment. There was, however, favourable reactions to a proposal from the United States, based on the submissions made by various developing country Members for the workshop on the implementation of the SPS Agreement, that the SPS Committee develop a guide to ensure the provision and evaluation of effective technical assistance; evaluate the use of the procedure adopted by the Committee for transparency in special and differential treatment; and consider how to enhance the usefulness of the questionnaire on technical assistance needs (G/SPS/W/198).

9. The Secretariat reported that it was preparing an evaluation of SPS-related technical assistance for consideration by the Committee. This evaluation would examine not only the assistance provided directly by the WTO Secretariat in response to requests from Members, but also assistance reported to the WTO/OECD database as maintained by the Standards and Trade Development Facility. A number of developing country Members stressed the usefulness of the WTO's specialized trade policy course on the SPS Agreement in enabling them to address specific difficulties they faced with the implementation of the Agreement in an effective manner.

10. The SPS Committee agreed to schedule another informal meeting on the proposals on special and differential treatment, as well as on possible actions to address some of the concerns underlying these proposals, during the week of 9 October 2006, immediately in advance of its next regular meeting.

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