

Committee on Sanitary and Phytosanitary Measures

**PROCEDURE TO MONITOR THE PROCESS
OF INTERNATIONAL HARMONIZATION**

Ninth Annual Report

Adopted by the Committee on 28 June 2007

A. INTRODUCTION

1. At its meeting of 15-16 October 1997, the SPS Committee adopted a provisional procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations, as provided for in Articles 3.5 and 12.4 of the SPS Agreement. This procedure was subsequently revised by the Committee in October 2004.¹ The Committee decided to extend the provisional monitoring procedure for a further two-year period in July 1999, and again in July 2001, and in June 2003 the Committee further extended the provisional procedure for 36 months.² On 28 June 2006, the Committee agreed to extend the provisional procedure indefinitely, and to review its operation as an integral part of the periodic Review of the Operation and Implementation of the Agreement under Article 12.7.³ The next such Review is to be completed in 2009, and every four years subsequently.

2. The Committee has previously adopted eight annual reports on the monitoring procedure.⁴ These reports summarize several standards-related issues that the Committee has considered and the responses received from the relevant standard-setting organizations.

B. NEW ISSUES

3. Since the adoption of the Eighth Annual Report, one new issue has been raised under this procedure. At the meeting of 27-28 June 2007, Argentina drew attention to the problem faced in particular by developing country Members, when importing Members establish national maximum residue limits (MRLs) for pesticides which are stricter than those developed by Codex without scientific justification.⁵ In contrast to the MRLs established by Codex on the basis of worldwide risk assessments, a number of Members have established MRLs based on limited testing within their own territories, and which are often set at the limit of detection. Furthermore, Members remove active substances from their national registries of permitted products not for scientific reasons but for purely commercial reasons. Developing country Members lack the scientific and financial resources to challenge the inconsistency of these trade-restricting measures with the SPS Agreement. Argentina observed that additional problems arise from the fact that for many of the active substances used by food-exporting Members, there are no Codex standards.

¹ G/SPS/11/Rev.1.

² G/SPS/14, G/SPS/17 and G/SPS/25.

³ G/SPS/40.

⁴ These were circulated as G/SPS/13, G/SPS/16, G/SPS/18, G/SPS/21, G/SPS/28, G/SPS/31, G/SPS/37 and G/SPS/42.

⁵ G/SPS/W/211.

4. Argentina proposed that

- (a) The SPS Committee set up appropriate mechanisms to ensure that the Codex Alimentarius undertakes or accelerates work on establishing pesticide MRLs for substances of interest to agricultural exporting Members, and that it urge Members to provide the scientific information available to them so as to facilitate the technical work;
- (b) a mechanism be developed to monitor the establishment of national MRLs for substances that have Codex MRLs;
- (c) procedures be defined to facilitate, and secure the transparency of, risk assessments which support MRLs that are more demanding than those of the Codex;
- (d) the SPS Committee analyze its own areas of responsibility and those of the Codex with a view to securing effective monitoring of the mechanisms and procedures established; and that
- (e) the Committee make a recommendation to the Codex Alimentarius Commission to approve the decision to continue addressing this issue at its highest decision-making level and in the most appropriate technical fields.

5. Many Members agreed with Argentina regarding the problem and supported Argentina's proposals in this respect. Other Members observed that the proposal had been submitted only during the course of the meeting, and that they required more time to consider the matter.

6. The representative of the Codex observed that Codex standards were established on the basis of the best available scientific data by the Joint FAO/WHO Meetings on Pesticide Residues (JMPR). However, this necessitated a commitment by governments to generate the necessary data and to provide these to JMPR. Codex had no procedure to identify which countries applied Codex standards and which did not do so. The issue raised by Argentina would be considered also by the Codex Alimentarius Commission at its July 2007 meeting, with a view to determining how to proceed.

7. The Committee agreed to revert to this issue at its October 2007 meeting.

C. PREVIOUS ISSUES

8. Since the adoption of the Eighth Annual Report, there has been no further discussion on any issue previously raised under this procedure.

D. RESPONSES RECEIVED FROM THE RELEVANT STANDARD-SETTING ORGANIZATIONS

9. At the meeting of the Committee in October 2006, the representative of the Codex reminded the Committee of the decision by the Codex Alimentarius Commission to abolish the procedure regarding the notification of acceptance by Members on the use of Codex standards. The main reasons for the abolition were that it created a dichotomy between those Codex standards submitted for acceptance by Codex members and those that were not actually used substantively by Codex members. There had been ongoing discussion in the Codex as to which new procedure or measures or instruments could be introduced to address the wish of Codex members to monitor the use of Codex standards. One proposal to this effect had been that the regional Codex coordinating committees have a standing agenda item regarding the use of Codex standards and related texts at the national and regional level. The Codex secretariat had sent a circular letter to all Codex members that contained a questionnaire related to: (1) the use of Codex standards and related texts at the national and regional

level; (2) non-use of Codex standards and related texts; (3) any difficulties encountered by Codex members in using Codex standards and related texts; (4) relevance of Codex standards as a basis for harmonization; and (5) any other health and trade problems related to standardization (G/SPS/GEN/727).
