

Committee on Sanitary or Phytosanitary Measures

IMPLEMENTATION – RELATED ISSUES AND CONCERNS

Report to the Trade Negotiations Committee by the Chairperson

1. This report is submitted on the Chairperson's own responsibility, in the context of the Work Programme agreed in paragraph 12 of the Ministerial Declaration adopted at the Fourth Session of the Ministerial Conference in November 2001.

2. Two specific implementation issues were to be addressed by the SPS Committee. One concerns a proposal by Brazil with regard to the notification of SPS measures, and the other concerns the programme to further the implementation of Article 4 of the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement).

Brazil's proposal on notification of SPS measures

3. On 17 October 2001, Brazil submitted a proposal that:

"Where the introduction of SPS measures may have significant effect on trade opportunities for products of interest to developing countries, Members shall notify the WTO and inform the concerned Member prior to the application of such measures and, in addition, to the relevant provisions of paragraph 5 of Annex B and Article 7, shall notify final rules or subsequent decisions derived from a previously notified measure."

This proposal was considered by the SPS Committee in the context of a review of the recommended procedures for implementing the transparency provisions of the SPS Agreement (Article 7), during the meetings of 31 October-1 November 2001 and 19-21 March 2002.

4. At its meeting in March 2002, the Committee agreed to revised recommended procedures for implementing the transparency provisions of the SPS Agreement.¹ These agreed procedures include recommendations regarding the submission by Members of addenda, corrigenda and revisions to their original SPS notifications. The recommendations include that Members should notify changes in the status of a notified SPS regulation.

5. In particular, Members should submit an addendum to a notified measure:

- (a) when a proposed regulation is either adopted or comes into force. A Member may wish to indicate in the addendum if the final regulation has been substantially modified from the notified proposal;
- (b) if a proposed regulation is withdrawn;

¹ G/SPS/7/Rev.2

- (c) if a regulation is revoked;
- (d) if the comment period has been extended;
- (e) if the period of application of the existing notification is extended;
- (f) if the scope of application of the existing notification is reduced, either in terms of Members affected or products covered. Such a change may warrant the extension of the comment period.

6. In accordance with the recommendations, an addendum should briefly recap what was notified, specify what change has been made and why, and restate the comments deadline.

7. In addition, the recommendations adopted by the Committee state that a Member should submit a revision to replace an existing notification when, for example, the scope of application of a notified regulation is extended, either in terms of Members affected or products covered. A Member should provide a further period for comments, normally 60 days, on the revised notification.

8. The Committee adopted forms for Members to submit addenda or revisions of regular and emergency notifications.

Programme to further the implementation of Article 4 of the SPS Agreement

9. In October 2001, the SPS Committee adopted a Decision on the Implementation of Article 4 of the SPS Agreement.² At the Fourth Ministerial Conference, Ministers took note of this Decision and instructed the Committee to expeditiously develop a specific programme to further the implementation of Article 4, as foreseen in paragraph 13 of the Committee's Decision.

10. At its meeting of 19-21 March 2002, the Committee adopted a Programme for Further Work.³ This work programme sets out particular actions to be undertaken at each of the Committee's informal and regular meetings during 2002 and 2003 (the Committee normally meets three times each year).

11. The Committee has progressed regularly in line with the agreed work programme. It has developed and adopted a format for the notification of Determination of the Recognition of Equivalence of SPS Measures.⁴ It has considered information provided by Members on their experiences regarding the implementation of Article 4, as well as information provided by the Codex, OIE and IPPC regarding their work on equivalence. To date, no Member has submitted a notification regarding agreements recognizing equivalence.

12. Several Members have submitted suggestions for the clarifications of paragraphs 5, 6 and 7 of the Decision on Equivalence. On the basis of these suggestions and of the discussions in the Committee, the Committee has agreed on a clarification of paragraph 6 of the Decision. The Committee also adopted some clarifications of paragraph 5, and agreed to continue consideration of suggestions for further clarification of this paragraph.⁵ Discussions on the clarification of paragraph 7 will continue, in accordance with the work programme, at meetings of the Committee in 2003.

² G/SPS/19.

³ G/SPS/20.

⁴ G/SPS/7/Rev.2/Add.1

⁵ G/SPS/19/Add.1