

**Committee on Sanitary and Phytosanitary Measures**

**IMPLEMENTATION AND SPECIAL AND DIFFERENTIAL TREATMENT**

Report by the Chairman to the General Council

**Part I: Implementation**

General

1. The SPS Committee has continued to provide a forum for consultations and has carried out the functions necessary to implement the provisions of the SPS Agreement in line with Article 12.1 of the Agreement. At each meeting of the Committee, Members have been invited to provide information regarding their implementation of the Agreement, including any problems arising therefrom. A major focus of the work of the Committee has been on the specific trade problems Members have identified related to the implementation of the Agreement by other Members. Another standing item on the agenda of the SPS Committee is the "SPS Agreement and Developing Countries – Implementation of the Provisions for Special and Differential Treatment". A number of implementation and special and differential treatment issues have been considered by the Committee in 2003.

Issues arising from the Doha Ministerial Conference

2. In October 2001, the SPS Committee adopted a Decision on the Implementation of Article 4 of the SPS Agreement.<sup>1</sup> 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. The Committee adopted a Programme for Further Work in March 2002.<sup>2</sup> Clarifications of paragraphs 5 and 6 of the Committee's Decision were adopted in November 2002.<sup>3</sup>

3. In 2003, the work of the Committee on this issue progressed regularly in line with the agreed programme. Informal meetings were held prior to each of the Committee's regular meetings to consider proposed clarification of paragraph 7, and further clarification of paragraph 5 of the Decision. At the meeting of 24-25 June 2003, the Committee agreed on an ad referendum basis to a clarification of paragraph 7, and as no objections were raised, this proposal was adopted.<sup>4</sup> At the October 2003 meeting, there was much discussion of a further clarification of paragraph 5, based on a proposal from Argentina<sup>5</sup>, with modifications suggested by a number of other Members. However, it was not possible to reach final agreement. The Committee has agreed to consider the modified proposal again at its next regular meeting in March 2004.<sup>6</sup>

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<sup>1</sup> G/SPS/19.

<sup>2</sup> G/SPS/20.

<sup>3</sup> G/SPS/19/Add.1.

<sup>4</sup> G/SPS/19/Add.2.

<sup>5</sup> G/SPS/W/123/Add.2.

<sup>6</sup> G/SPS/W/142.

4. Additionally, at each meeting in 2003, Members provided information on their experiences regarding the implementation of Article 4, and information was also provided by the Codex, OIE and IPPC regarding their work on equivalence.

5. The Committee has thus completed its programme of work, but will continue to consider further clarification of paragraph 5 of its Decision on Equivalence. It has also agreed to maintain the issue of equivalence as a standing agenda item for its regular meetings, seeking information from both Members and observer organizations on their experiences and progress with the implementation of equivalence in the context of the SPS Agreement.

## **Part II: Special and Differential Treatment**

### Issues raised directly in the Committee

6. The Committee continued its examination of the SPS Agreement and the concerns of developing countries in 2003. At its April meeting, the Committee adopted in principle a Canadian proposal to enhance the transparency of the special and differential treatment, subject to further elaboration of the procedures.<sup>7</sup> An elaboration of the steps to be followed in the implementation of the proposal was suggested by the Secretariat, and revised following its consideration by the Committee at its July meeting.<sup>8</sup> Just prior to the October meeting, the United States suggested further modifications to this elaboration.<sup>9</sup> The Committee was unable to reach final agreement on these proposals and will revert to this matter at the Committee meeting in March 2004.

7. The Committee also further considered a proposal by Egypt for the inclusion of information on available special and differential treatment in the notification formats.<sup>10</sup> The objective is to identify, at the time a measure is being developed or modified, the developing countries which might be affected by the new measure and the availability of special and differential treatment or relevant technical assistance. Another suggestion under consideration by the Committee is a proposal by Mexico<sup>11</sup> for the pre-notification of measures being developed by Members, describing the objective of the measure and the products to be covered. Discussion on these proposals will continue in March 2004.

8. Recognizing that many developing country Members face difficulties in ensuring the effective operation of their national enquiry points, the Committee held a special meeting on the operation of enquiry points in the margins of the October meeting. Using speakers and panel discussions, the meeting focussed on the problems Members' enquiry points face which inhibit their effective operation and on the means to overcome such constraints. Ten participants from enquiry points in least developed and developing countries were sponsored to attend the special meeting, as well as the informal and regular meetings of the SPS Committee, thanks to funds provided by two Members. Three of the sponsored participants gave presentations at the special meeting. Information provided at the special meeting, responses to a questionnaire circulated prior to the meeting regarding the operation of the enquiry points and national notification authorities<sup>12</sup>, and papers submitted by several

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<sup>7</sup> G/SPS/W/127

<sup>8</sup> G/SPS/W/132/Rev.1

<sup>9</sup> G/SPS/W/141

<sup>10</sup> G/SPS/GEN/358

<sup>11</sup> G/SPS/W/136

<sup>12</sup> G/SPS/W/103/Rev.1

Members<sup>13</sup> will be used by the Secretariat to identify some practices which may assist developing countries to more effectively operate their national enquiry points and notification authorities.

Issues referred to the Committee by the General Council

9. On 20 May 2003, the Chairman of the General Council referred five proposals relating to special and differential treatment to the SPS Committee.<sup>14</sup> In June, the Committee adopted a work plan for further consideration of these proposals.<sup>15</sup>

10. In accordance with the agreed work plan, Members were requested to submit specific comments on these proposals, including specific suggestions to address any differences of views regarding the proposals, before 30 September 2003. These comments were considered by the Committee at its meetings in October. Comments supported by a number of other Members were that the provision of technical assistance could not be made mandatory or cost free, nor should justified SPS measures be withdrawn simply because some Members might have difficulty complying with the requirements.

11. Any further comments and specific suggestions received from Members on the five proposals will be considered at the March 2004 meeting.

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<sup>13</sup>China G/SPS/GEN/378, Argentina G/SPS/GEN/425 and corrigendum, Australia G/SPS/GEN/429, Canada and New Zealand G/SPS/GEN/430, Pakistan G/SPS/GEN/436, Panama G/SPS/GEN/438, Senegal G/SPS/GEN/441, Venezuela G/SPS/GEN/442, Thailand G/SPS/GEN/450 and Mexico G/SPS/GEN/451.

<sup>14</sup>JOB(03)/100.

<sup>15</sup>G/SPS/26.