



64TH MEETING OF THE SPS COMMITTEE

INFORMATION PAPER - OIE STANDARDS AND RECENT WTO DISPUTES

Communication from the World Organisation for Animal Health (OIE)

The following communication, received on 11 September 2015, is being circulated at the request of the OIE.

The OIE standards, guidelines and procedures featured in two recent WTO disputes concerning trade restrictions arising from measures to prevent the introduction of animal diseases. In both cases, the OIE provided written responses to questions submitted to it by the Panel. As this matter is topical, the OIE decided to provide an update to the Committee on the OIE standards and related procedures.

The first of these two WTO cases, WT/DS430 (India - Measures Concerning the Importation of Certain Agricultural Products) has been finalised and the reports are on the WTO website. In the second case, WT/DS447 (United States – measures affecting the importation of animals, meat and other animal products from Argentina) the Panel report was adopted on 31 August 2015. In both cases it was alleged that the importing country had failed to base certain sanitary measures on relevant OIE standards and that related import restrictions were, as a consequence, inconsistent with certain articles of the SPS Agreement.

The recommendations in the OIE *Terrestrial Animal Health Code (Terrestrial Code)* were centrally relevant to these two disputes. The *Terrestrial Code* sets out risk-based measures, based on current science, to prevent the introduction of animal diseases and zoonoses. The correct application of the OIE's science-based standards helps to facilitate safe trade and to avoid unjustifiable trade barriers. With this in mind, the OIE encourages member countries to implement the adopted standards and to participate in their development and subsequent updates or revisions. The OIE welcomes the opportunity to provide advice to Panels and to this Committee, consistent with the organisation's role as one of the "Three Sisters" referenced in the SPS Agreement.

1 SCIENTIFIC FOUNDATION OF THE OIE STANDARDS

1.1. The OIE standards are based on science and sound risk management principles and are developed or updated whenever necessary to take account of new scientific information. The OIE's scientific infrastructure includes a global network of reference centres comprising internationally renowned experts on animal diseases and related fields. For example: the OIE has recognised Reference Laboratories on avian influenza (AI) in nine countries, as geographically diverse as Australia, China, India, Italy and Japan. The OIE calls upon the broadest possible range of scientific expertise. In keeping with the "One Health" concept, the OIE collaborates with experts in the field of human medicine, for example, through the Global Early Warning System for Animal Disease including Zoonoses (GLEWS), a joint initiative of the OIE, FAO and WHO, as well as the "One Health" tripartite Agreement with the same United Nation Bodies. In establishing these scientific networks, the OIE member countries are giving effect to the principle that countries must act transparently and collaboratively to prevent disease. These global networks are the scientific foundation of OIE standards and guidelines.

2 THE RELEVANCE OF THE OIE STANDARDS TO MEMBER COUNTRIES

2.1. In addition to their scientific foundation, the relevance of the OIE standards is assured by a thorough process of review by member countries. Under the established OIE procedures, new standards and significant revisions of established standards are distributed to member countries for comment twice annually during a two-year period (i.e. up to four times in total). The OIE elected Commissions review the experts' recommendations not only on the basis of science but also in the light of comments from member countries. In practice, by using their own national expert network and consulting with national stakeholders, the governmental Veterinary Authority of each country is the main contributor of comments on standards, but private sector organisations, academia and civil society also participate in topics of interest to them.

3 A TRANSPARENT AND DEMOCRATIC PROCESS

3.1. The reports of the elected Commissions and the expert groups that report to them are published in full on the OIE webpage, where the Commissions explain their consideration of comments on draft and revised standards.¹ The adoption of OIE standards follows a rules-based procedure that gives responsibility to the national Delegate (normally, the head of the national Veterinary Authority) who is nominated by the Government of each member country thus establishing a unique procedure that underpins the intergovernmental status of OIE standards. Each country has a single vote. Delegates have the option to abstain or vote against the adoption of a standard but, in practice, voting is rarely used and the majority of standards are adopted by consensus. In the rare instance when a voting procedure is used, adoption is achieved through a 2/3 majority.

4 PROMOTING ACCESS TO SCIENTIFIC INFORMATION AND PROVISION OF GUIDANCE ON OIE STANDARDS IMPLEMENTATION

4.1. In addition to using the latest scientific knowledge as a basis for standards, the OIE disseminates scientific information by publishing reports on animal diseases and their control methods; as well as risk management. These publications are not standards and they do not follow the procedures outlined above; however, they are the subject of extensive research and scientific peer review. One such key publication is the OIE Handbook on *Import Risk Analysis for Animals and Animal Products*. In addition, the OIE *Scientific and Technical Review* is a highly respected international publication. This contains many articles relevant to the standards, for example an article published in the Review in December 2014: "The Scientific Rationale for the OIE standards and recommendations on avian influenza", which explains how the AI standards have evolved in response to scientific progress.

4.2. The OIE also publishes and updates guidelines on the application of the standards. Relevant documents that are available on the OIE webpage include:

- "Procedures used by the OIE to set standards and recommendations for international trade, with a focus on the *Terrestrial and Aquatic Animal Health Codes*";
- "The Legal rights and Obligations of OIE member countries in the WTO Context"; and
- "Facilitating safe trade: how to use the *Terrestrial Code* to set health measures for trade in terrestrial animals and products".²

5 THE OIE STANDARDS AND ARTICLE 6 OF THE SPS AGREEMENT – REGIONALISATION

5.1. Both of the aforementioned WTO cases considered the topic of regionalisation and, as a result, some valuable new guidance has become available to WTO Members. The OIE has focused on the issue of regionalisation for a number of years. In this context, it is important to note that disease prevention and control, including the setting of trade measures, must always be based on effective surveillance for animal diseases and early reporting to the OIE. The OIE standards provide detailed guidance on how to achieve these key objectives. Since the founding of the WTO, the OIE has continued to develop standards and guidance on regionalisation, in terms of compartmentalisation and zoning, which are distinct but related applications of this important SPS principle.

¹ <http://www.oie.int/en/international-standard-setting/specialists-commissions-groups/>.

² <http://www.oie.int/en/international-standard-setting/overview/>.

6 INVOLVEMENT OF DEVELOPING COUNTRIES

6.1. It is crucially important to support developing countries in their capacity to participate in standards development, including the application of risk analysis and other strategies for the prevention and control of animal diseases. The failure of one country to control diseases threatens an entire region and, through globalisation, the entire world.

6.2. More than half of the OIE's 180 member countries may be classified as developing or least developed countries. The OIE employs several initiatives to help these countries to become involved in standard setting and to implement the adopted standards. To this end, the OIE has, among others, implemented the PVS (Performance of Veterinary Services) Pathway, working in partnership with international donors to improve governance and technical capacities of the national Veterinary Services. Approximately 250 PVS Pathway missions have been carried out at the request of more than 130 member countries to date. As a result of these initiatives we are seeing increasingly active participation of developing countries in OIE standard setting as well as regional coordination between the countries.

7 CONCLUSIONS

7.1. Consistent with its role as a reference standard setting organisation to the WTO, the OIE places great importance on the scientific excellence, integrity and transparency of its standard setting procedures. Standards are based on the most up-to-date scientific knowledge with participation of internationally renowned experts from the entire world. Member countries, the global scientific community and interested private and public sector organisations are all engaged in the development of these standards. There is an ongoing emphasis on the active participation of developing countries.

7.2. Correct application of the OIE standards helps to facilitate safe trade and to avoid the imposition of unjustifiable trade barriers.
