

**Committee on Sanitary and phytosanitary Measures**

**RESPONSE TO THE CHAIRMAN OF THE COMMITTEE ON TRADE AND  
DEVELOPMENT RELATING TO SPECIAL AND DIFFERENTIAL TREATMENT**

Note by the Secretariat

In December 2001, the Chairman of the Committee on Trade and Development wrote to the Chairman of the SPS Committee requesting information regarding the discussions or other developments in the SPS Committee relating to special and differential treatment. For the information of the Committee, the response from the Chairman is reproduced below.

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"The SPS Committee first undertook systematic discussions regarding special and differential treatment in the context of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) in the course of its review of the operation and implementation of the SPS Agreement in 1998-99. In its report of this review (G/SPS/12), the SPS Committee noted that the notification procedures for proposed sanitary and phytosanitary measures allow developing country Members to identify potential problems in meeting new requirements which may adversely affect their exports before the new measure(s) come into force. The SPS Committee stressed that Members should, in accordance with Article 10.2, accord longer time-frames for compliance on products of interest to developing country Members. The SPS Committee also recalled that under Article 10.3 of the SPS Agreement, developing country Members could request further time-limited exceptions with respect to any obligation under the SPS Agreement taking into account their financial, trade and development needs; however, during the period under review, no specific requests had been submitted.

"The SPS Committee agreed to examine the concerns of developing countries with regard to the SPS Agreement as a regular item of its agenda starting in March 1999. Initial discussions identified some concerns, including with regard to special and differential treatment. Starting in March 2000, the SPS Committee agreed to focus its discussions on particular issues raised by developing countries, on the basis of papers submitted by Members. The first specific issue considered by the SPS Committee was special and differential treatment, at its meetings of June and November 2000. The Secretariat prepared a background paper summarizing discussions to date in the SPS Committee on the provisions for special and differential treatment (G/SPS/W/105).

"A number of developing country Members stressed the need for longer time-frames for compliance with requirements on products of interest to developing countries, in accordance with Article 10.2 of the SPS Agreement, and some suggested that this time-period

should be at least 12 months. Another concern raised was the need for financial and technical assistance to ensure effective participation by developing countries in the relevant international standard-setting organizations. Some Members drew attention also to the need for special and differential treatment to be complemented by sufficient technical assistance to strengthen developing countries' ability to deal with scientific issues, especially risk assessment, and to improve laboratory facilities and technologies needed to comply with SPS obligations. Developing countries often faced difficulties in the application of new methodologies, and some Members suggested that guidelines on Article 10.2 could address the concerns of developing countries in specific areas such as Hazard Analysis and Critical Control Point (HACCP).

"During these discussions, some Members suggested that it would be most useful if the SPS Committee were provided with concrete examples of the need for special and differential treatment, particularly where this was related to the use of new technologies. Others asked for specific examples of how existing special and differential treatment provisions had failed to meet the expectations of governments and producers in developing countries, so that regulators could make the provisions of Article 10 more beneficial to developing countries. It was also noted that the SPS Committee had supported efforts to ensure that technical assistance was provided to meet the needs of developing countries through cataloguing individual technical assistance requests and documenting past and current technical assistance activities of Members. The point was made that while governments were willing to be flexible in finalizing regulations and extending implementation dates, governments were not willing to compromise public health. Members also raised the concern that extensive special treatment might give rise to concerns about discrimination. Representatives of the relevant standard-setting organizations noted the increased participation by developing countries in their standard-setting activities in recent years, and outlined the various actions underway to further facilitate this participation. A summary of the discussions is contained in the reports of the SPS Committee meetings, G/SPS/R/19 and G/SPS/R/20.

"At subsequent meetings of the SPS Committee, the discussion of the concerns of developing countries has focussed primarily on the issue of the implementation of Article 4 of the SPS Agreement regarding equivalence of SPS measures and, more recently, on technical cooperation and assistance. The Committee adopted a decision to facilitate the implementation of Article 4 in October 2001 (G/SPS/19). A special workshop on the procedures of the relevant standard-setting organizations, with a focus on how to improve the participation of developing countries in these activities, was held in conjunction with the meeting of the SPS Committee in March 2001.

"To date, no Member has requested a time-limited exception with respect to any obligations under the SPS Agreement, as provided for in Article 10.3.

"At the same time, many of the special and differential concerns raised at the SPS Committee were also examined by the General Council in its consideration of implementation concerns. These included clarifying what constitutes a "longer time-frame" in the context of Article 10.2 and the "reasonable interval" between publication and entry into force of a measure indicated in paragraph 2 of Annex B of the SPS Agreement. These special and differential treatment concerns were addressed in the Decision on Implementation-Related Issues and Concerns taken at the Fourth Ministerial Conference. Furthermore, at the request of the General Council, the Director-General has pursued cooperative efforts with the relevant standard-setting and financial organizations to facilitate the effective participation of

developing countries in standard-setting activities and to coordinate SPS-related technical assistance.<sup>1</sup>

"The concerns of developing countries remain a standing agenda item for all regular meetings of the SPS Committee, and any Member can raise, in this context, issues relating to special and differential treatment. Equally important, at every regular meeting the SPS Committee considers any specific trade concern which a Member may wish to raise, providing a further opportunity for specific problems relating to the need for special and differential treatment to be discussed. The SPS Committee has also agreed to continue its focus on technical cooperation and assistance, through informal and formal meetings in the coming months.

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<sup>1</sup> Also reported in WT/GC/42, WT/GC/45, WT/GC/46/Rev.1, WT/GC/54 and WT/MIN(01)/ST/97.