

**ADDITIONAL COMMENTS ON ARTICLE 6 OF THE
SPS AGREEMENT - REGIONALIZATION**

Communication by Chile

Article 6. Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence.

COMMENTS:

Declaration and recognition of pest- or disease-free areas

1. A key objective of national regulatory bodies responsible for sanitary and phytosanitary measures (SPS) is to improve and preserve the country's sanitary and phytosanitary status by means of the surveillance, eradication and/or control of pests and diseases in part or all of its territory, and subsequently to strive to maintain that status. There are many examples of outbreaks of animal disease such as Foot-and-Mouth Disease, Classical Swine Fever, and Avian Influenza and Newcastle Disease in birds, and of plant pests such as fruit flies, where countries have invested resources and have gone to great lengths to eradicate them in part or all of their territory, with the aim of declaring an area to be free of the pest or disease in question.

2. Nevertheless, it is not enough merely to achieve a certain sanitary or phytosanitary status; evidence of that status must be provided with a guarantee that it will be maintained. However, recognition on the part of some countries is often unduly delayed by the lack of transparency on the part of the importing country.

3. In Chile's experience, there have been instances in which recognition by some countries that an area was free of a certain pest or disease was obtained in a few months, while it took other countries several years.

Procedure for the sanitary and phytosanitary recognition of free areas

The following stages could be used as a guideline for the recognition procedure:

- Requirement of an official request, usually by the competent national health authority (plant health or veterinary service, depending on the case);
- request for information, often using questionnaires on the organizational and operational aspects of the veterinary or phytosanitary services, epidemiology, surveillance, quarantine systems and programmes dealing with emergencies and health warnings;
- analysis of the information and evaluation of the sufficiency thereof;
- visit to the area in question, if deemed necessary, for on-site verification of the information received;
- technical analysis;
- adaptation of procedures on a bilateral basis;

- issuance of an acceptance or rejection report.
- making the report available for public consultation at the national level;
- issuance of the legal instrument recognizing the free area.

4. Each of these stages requires close cooperation between the importing and the exporting countries in order to achieve an adequate level of protection, which includes carrying out such audits and verifications as are deemed appropriate under domestic law.

5. In short, while these are the steps that a country granting recognition would normally fulfil, there are variations ranging from countries that have no established guidelines to others that have more stages.

Declaration of a free area

- In order to declare the sanitary or phytosanitary status that has been reached, a country must fulfil, as a minimum, the standards or requirements of the international reference organizations with respect to the pest or the disease in question, *inter alia* as concerns the technical guidelines for eradication programmes, the time elapsed since the problem was solved and proof of absence (IPPC).
- To that end, the organizational and operational structures of the national regulatory bodies must be described in detail, in accordance with the guidelines established by the competent international organizations (OIE and IPPC).

Problems with the recognition procedure

6. There are usually delays in the recognition procedure, due to countless factors, such as:

- Information quality.
- Timeliness of the information.
- Flexibility of the analysis process.
- Lack of adequate channels of communication.
- Lack of transparency in information and procedures.
- Asymmetry in technical and operational capacity.
- Request for irrelevant information (protectionism, technical capacity).
- Lack of harmony in procedures.
- Lack of technical and operational resources at national level to address the number of requests effectively.

7. Lastly, the guidelines set out in Article 6 of the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) should be followed, both in terms of the evidence and information on the part of the requesting country and the evaluation and verification on the part of the country receiving the request.

8. Irrespective of the above considerations, certain bodies differentiate between free countries and free areas, without taking into consideration the definition of a free area provided in the SPS Agreement.