

**ADDITIONAL COMMENTS ON ARTICLE 6 OF THE SPS AGREEMENT –
ADAPTATION TO REGIONAL CONDITIONS**

Communication from the United States of America

The following communication, received on 27 January 2006, is being circulated at the request of the Delegation of the United States of America.

1. The United States has previously shared with Members the observations that it has gleaned from its experiences with regionalization, both from the standpoint of an exporting country and as an importing country (G/SPS/GEN/477, 16 March 2004). We are taking this opportunity to expand on our earlier communication, with a particular focus on the questions raised by Brazil in the Committee's informal discussion on regionalization in June 2005 (G/SPS/W/177).

Recognition by international standard-setting bodies

2. While useful and important, the recognition by an international standard-setting body of the disease and pest-free status of a region is not a substitute for a Member's consideration and recognition of this status.

3. The World Organization for Animal Health (OIE) has developed criteria and procedures whereby Members may declare disease-free status to the OIE. After approval of a Member's declaration by the OIE General Assembly, the OIE subsequently publishes a list of Members who have made this declaration for each of the animal diseases covered by these procedures. To date, four diseases are covered by these OIE procedures. The International Plant Protection Convention (IPPC) has no procedures for official recognition by the IPPC of plant pest-free areas or areas of low prevalence. Rather, the guidelines developed by the IPPC set out the procedures which may be used by Members to establish and maintain pest or disease free areas. These are significant and important differences which must be taken into account as Members implement the provisions of Article 6.

4. The applicability of international recognition may be further limited in instances where the provisions of the Terrestrial Animal Health Code – the standard which is applied by the OIE to make its disease-free status determination – does not provide the level of protection being sought by an individual Member. Article 3.3 establishes Members' rights and obligations in such situations.

5. Since 1995, the disease-free standard applied by the OIE has resulted in a listing of disease-free countries or zones through issuance of a series of resolutions adopted by OIE Members. However, none of the resolutions specify whether or how Members shall take this official recognition into account in the development and implementation of sanitary measures. Furthermore, each

resolution contains a caveat that implies that this official recognition by the OIE in and of itself is not a substitute for measures that must be determined by the importing Member: "The OIE is not responsible for inaccurate publication of country disease status based on inaccurate or incomplete information or changes in epidemiological status or other significant events which were not promptly reported to the Central Bureau subsequent to the time of declaration of freedom" (e.g., paragraph 10, Resolution XX, List of Foot and Mouth Disease Free Countries, OIE, 24 May 2005). The individual Member is responsible for developing and enforcing its measures and for meeting the obligations of the SPS Agreement.

6. The United States notes that the OIE has progressed further than the IPPC in establishing a guideline on how an importing country may recognize the declared status of an exporting country. However, the OIE and the IPPC have not specified how a Member's declaration of freedom from a specified animal disease or pest may be used by other Members. In the view of the United States, the OIE and IPPC are the most appropriate fora to discuss of the use and application of these declarations.

Enhancing transparency of regionalization decisions

7. While the OIE and IPPC have guidelines that provide information for exporting regions in the establishment and maintenance of pest or disease-free areas, parallel guidelines do not yet exist for importing countries. In response to the discussions in this Committee, the OIE and IPPC have undertaken as part of their current work programs to develop guidelines for the importing country to use in evaluating a regionalization request.

8. The United States strongly supports the development of these guidelines by the OIE and the IPPC as we believe they will be very useful in enhancing the transparency of national procedures for recognition of disease or pest freedom. They can likewise increase the consistency of such procedures among Members through harmonization of national measures based on international standards and guidelines. The United States and other Members have pointed out that the OIE and IPPC possess the technical expertise necessary to develop such guidelines. The existing standards of the OIE and IPPC related to risk assessment are the appropriate basis for this work.

9. In the United States, decisions on regionalization are considered to be SPS measures and are, therefore, subject to all of the obligations of the SPS Agreement and the requirements governing the development and implementation of US regulations. Due to various aspects of these requirements aimed at ensuring transparency of decision-making with interested parties, it is not possible or appropriate to prescribe specific timeframes for technical analysis, internal review, public comment and response to comments. Timeframes vary and are determined case-by-case basis.
