

**APPLICATION OF ARTICLE 6 OF THE AGREEMENT ON SANITARY
AND PHYTOSANITARY MEASURES**

Submission by the European Communities

The following communication, received on 26 January 2006, is being circulated at the request of the Delegation of the European Communities.

1. On 23 November 1998, the WTO Secretariat issued G/SPS/GEN/101 on "Adaptation to regional conditions – Equivalence" as submitted by the European Communities and on 12 December 2003 its update (G/SPS/GEN/461) was circulated. More recently, the EC submitted another document on the clarification of Article 6 of the SPS Agreement (G/SPS/GEN/588, 8 July 2005). The papers all outlined the regionalization policy of the European Communities, providing practical experience. In particular the most recent paper (GEN/588) highlighted the steps and conditions to successfully apply regionalization.

2. Lately, the concept has become more prominently the subject of discussion at every SPS Committee meeting. In particular, the difficulties in the application of the regionalization policy, the need for clear guidance as well as the differences in understanding of the principles laid down in Article 6 of the SPS Agreement between the WTO Members necessitated a more in-depth contemplation of the issue. Moreover, the growing lack of application of the regionalization principle as a cause for a specific trade concern under that item on the SPS Committee agenda highlights the need for further clarification.

3. In the light of this, the European Communities expresses its thanks to the WTO Secretariat for organising an enhanced informal on Article 6 of the SPS Agreement before the regular SPS Committee meeting in January 2006. At this forum the European Communities and several of its Member States present how the regionalization policy works in practice and can be successfully implemented. The European Communities describes its experience through several practical examples that clearly show that a correct application of the regionalization principle reduces trade disruption to the minimum, both in terms of geographical area affected and in terms of time period, without posing unacceptable risks to the importing country.

4. Regionalization/zoning is a risk management option which is applied within the European Communities in a flexible manner, and in the same manner and in accordance with the same principles, the European Communities can recognise the application of this concept by third countries wishing to export to the European Communities. The system therefore requires mutual trust and confidence and is to be applied without undue delay. This is the foundation for minimal negative trade effects hence emphasising that the application of regionalization for SPS measures contributes to meet the provisions of Article 5.6 of the SPS Agreement, i.e. to choose the least trade-restrictive measures possible.

5. Its value is equally important as it can be very beneficial to many developing countries whose health status is not favourable in the whole territory, but that can nevertheless export their products if from a regionalised area. The European Communities has often used this technique and has created export opportunities for countries that would normally have little chance to export to countries with a higher sanitary or phytosanitary level.

6. As human and animal diseases and plant pests have never respected national boundaries, the concept of regionalization or "zoning", had been present in EC sanitary and phytosanitary legislation long before the establishment of the internal market. With the abolition of border controls, this policy was reinforced and extended to cover all the pests and diseases of major concern. The examples provided (see web link in paragraph 10) clearly demonstrate that a flexible approach both in strictness of measures and in timely lifting thereof when no longer necessary, keeps the level of trust very high and more importantly keeps trade going both within a country and with its neighbours. Unfortunately an outbreak of a certain pest or disease is very often an excuse for trading partners to put in place restrictive measures which go far beyond what is strictly necessary from a scientific point of view.

7. Similarly, when assessing the eligibility of a country to export live animals, products of animal origin, plants or their products to the European Communities, account may be taken of the sanitary or phytosanitary status of regions within the country as well as of the whole country, or even beyond the borders of one single country. Hence, the European Communities pleads that non-EC countries do not consider the European Communities as one single sanitary and phytosanitary zone or entity, but reciprocally assess individual situations in specific geographic areas, independently of national borders.

8. This principle of regionalization has been internationally recognized, incorporated in the SPS Agreement and adopted by the relevant international standard-setting bodies. The latter have recently (OIE) or will in the near future (IPPC) elaborate further technical guidance and follow any new developments in this respect. Although there has been already quite some progress, the European Communities strongly encourages these bodies to continue their work. This should however not be an impediment for WTO Members to already practice the principle, mainly because it involves only two parties. Likewise, the SPS Committee can already start developing guidelines on the administrative aspects. In particular, the issue of undue delays should be tackled urgently, especially because existing international guidelines are often disrespected.

9. The experience gained by the European Communities in operating this policy has demonstrated that it can meet the objective of maintaining a high health status while minimizing barriers to trade.

10. The full text of all four EC contributions (European Commission, Sweden, the Netherlands, Germany) can be downloaded at the following link:

http://europa.eu.int/comm/food/international/organisations/wto_regional/index_en.htm

11. In addition, the European Communities wish to take this opportunity to kindly draw the attention of other Members to the ongoing external evaluation of the Community Animal Health Policy (CAHP).

12. With the objective of collecting the view of stakeholders on the past Community Animal Health Policy (1995-2004) as well as their suggestions for the future, a survey has been launched last January {http://europa.sanco.cec.eu.int:8081/comm/food/animal/diseases/strategy/cahpeval_en.htm}.

13. All stakeholders are invited to fill in the related questionnaire by the end of February 2006. The on line questionnaire and supporting documents can be downloaded at the following link:

http://europa.sanco.cec.eu.int:8081/comm/food/animal/diseases/strategy/cahp_questionnaire_en.htm

14. A specific survey of third countries is undertaken in relation to the imports into the European Communities. It includes a set of questions on the EC policy on regionalisation:

http://europa.eu.int/comm/food/animal/diseases/strategy/survey_third_countries_en.htm
