

Committee on Sanitary and Phytosanitary Measures

**SUMMARY OF THE MEETING HELD ON
29-30 MARCH 1995**

Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures held its first meeting on 29-30 March 1995 under the chairmanship of Ambassador Kari Bergholm (Finland). The agenda of the meeting, contained in WTO/AIR/35, was adopted.

Rules of Procedure

2. The Chairman recalled that Rules of Procedure had been adopted by the WTO General Council but not yet by the Council in Goods. Pending a decision by that body, the SPS Committee agreed on *working procedures* to guide the Committee's work during the present and the forthcoming meetings (G/SPS/1). To what extent the proposed working procedures might be incorporated in formal Rules of Procedure for the SPS Committee will be considered at the Committee's second meeting.

Participation in Meetings

3. The Chairman recalled the General Council's decision on 20 January 1995 permitting (until end July 1995) the participation by *certain signatories* of the Final Act in formal and informal meetings of WTO bodies other than the Textiles Monitoring Body (WT/L27). The Committee **took note** of this decision and welcomed the participation of these signatories.

4. The Chairman noted that *certain governments* which were in the process of acceding to the WTO, or had initiated negotiations to do so, or had declared their intention to do so in the near future, had been invited to attend meetings of the General Council as observers. The Committee agreed that such governments be welcomed to attend meetings of the SPS Committee if they so requested, except if and when it would be considered appropriate to hold closed sessions with participation of Members only. The SPS Committee agreed to proceed likewise with regards to any other government which may be granted observer status in the General Council.

5. One delegation suggested that observer governments should be requested to provide specific information with respect to their SPS measures. The Secretariat was requested to prepare, in cooperation with interested Members, a paper describing what kind of information might in the future be requested from observer governments.

6. Concerning *international intergovernmental organizations*, the Chairman recalled the newly adopted working procedures and, noting the invitation extended therein, welcomed the representatives of the following bodies:

- FAO/WHO Codex Alimentarius Commission (Codex),
- Office international des epizooties (OIE),
- FAO Secretariat for the International Plant Protection Convention (IPPC).

7. It was observed that it was important for the work of the Committee to invite those organizations responsible for the development of relevant international standards. Regarding the participation of *other* international organizations as observers, the Committee **decided** to revert to this subject at its next meeting, to which only Codex, OIE and IPPC would be invited.

Notification

8. The Chairman underlined the difference between the two transparency procedures of the SPS Agreement, namely notification and enquiry points. While the objective of the *enquiry point* is to respond to any requests for information on existing or planned SPS measures, *notifications* are required to be submitted, without a specific request, for any planned SPS regulations which may have a significant effect on trade. Furthermore, while there is a requirement that a national government body be responsible for notification procedures, there is no such requisite for enquiry points.

9. With regard to notifications received to date, the Secretariat indicated that a number of notifications had been incorrectly submitted under the TBT Agreement instead of the SPS Agreement. Furthermore, several notifications had been submitted as emergency notifications without the required indication of the nature of the emergency and reason why advance notice was not possible. Several notifications were incomplete. The Secretariat reported that notifications were currently being translated and distributed within 3 to 4 days after their receipt, distribution being made only to local delegations and observers.

10. The Committee considered the notification procedures which had been recommended by the informal contact group (PC/IPL/6). The delegation of Norway suggested that further clarification was needed with regard to the concept of "significant effect on trade" and, in particular, how this was to be assessed. It was also suggested that a specific notification form for emergency cases would be useful, and that problematic notifications be discussed at future meetings in order to further understanding on the issue.

11. The Secretariat was requested to prepare a possible format for notification of emergency actions, to propose a clarification of the notification procedures with regard to "significant effect on trade" and to prepare a paper identifying problems in notifications received. Subject to these points, the Committee **agreed** on the recommended notification procedures.

Enquiry Points

12. Annex B of the Agreement requires each WTO Member to identify a *single* enquiry point per country with respect to SPS measures. However, a number of Members had submitted more than one enquiry point to the Secretariat. Participants who had yet to comply with this obligation were urged to do so before mid-April 1995.

13. The Committee **agreed** that a *joint* SPS and TBT special meeting on the subject of information procedures (notification and enquiry points) could facilitate the implementation of these procedures

by some Members, and requested the Chairman and the Secretariat to further explore the possibility of scheduling such a meeting before the end of 1995.

Risk Assessment

14. The three observer international organizations (Codex, OIE and IPPC) reported on work they had done in the area of risk analysis as well as their plans for future work. Their statements have been issued as the following SPS documents:

- FAO/Codex Alimentarius G/SPS/W/9
- OIE G/SPS/W/8
- IPPC G/SPS/W/10

15. Many participants welcomed the work undertaken by the technical organizations in this regard, although some expressed the concern that the pace of developments was too slow. A number of delegates stressed that the Committee must soon address what its role should be with respect to risk assessment and the work of the technical organizations.

16. Summarizing the discussion, the Chairman concluded that the Committee should keep up to date with relevant activities of the international organizations. Second, the Committee should, through their respective national governments, support the work of the international organizations in this area. Third, delegations should consider how the international organizations could be used to further the work of the SPS Committee, in particular with respect to risk assessment. Finally, the Chairman noted that the area of risk assessment was an emerging field of knowledge, and one task of the Committee was to provide guidance to Members in order to facilitate the implementation of the provisions of the Agreement.

Consistency in Risk Management

17. The Chairman observed that the Committee was explicitly tasked by the SPS Agreement with the development of guidelines with respect to consistency in risk management. The Australian delegation presented a discussion paper they had been requested to provide in order to facilitate the Committee's consideration of this issue (G/SPS/W/7). The representative of Australia noted that the term "consistency in risk management" was another way of expressing the requirement in Article 5.5 of the Agreement that "... each Member shall avoid arbitrary or unjustifiable distinction in the levels it considers to be appropriate in different situations...".

18. Many participants stressed the importance of this discipline to ensure that the Agreement functioned as had been intended, and the need for the Committee to continue to work on this matter.

19. The representative of New Zealand suggested that it would be useful to identify country specific *risk profiles*, which would be helpful in assessing consistency at a national level and could eventually form the basis for comparing processes at the international level. The Norwegian delegate recalled that Article 5.5 referred to the objective of achieving consistency in risk management; the expressed obligation was to avoid unjustifiable and arbitrary discrimination. The acceptance of risk arising from traditional foods, or non-acceptance by the public of other risks, had to be considered in this regard. The representative of Australia observed that the text of the Agreement recognized that certain voluntarily accepted risks needed to be addressed in a different manner, but that consistency in other risk management decisions would ensure that these were not arbitrary or unjustifiable.

20. The Chairman noted the importance attributed by the Committee to the principle of consistency in risk management in ensuring the efficiency of the SPS Agreement. He suggested that the distinction - as presented in the Australian paper - between the approaches to consistency at a national level and international level might be useful to the organization of further work on this issue. Regarding the approach to consistency at the *national level*, the task of the Committee was to provide guidelines - the question at hand was how and when to start work. As a first step, the Secretariat was requested to prepare a background paper identifying some key issues which could further thought and discussions in the area of consistency in risk management. Regarding the approach to consistency at the *international level*, the Chairman noted that a more profound discussion at the Committee's next meeting was necessary. Countries which already had established procedures of risk assessment on the national level, and which had identified their own risk profile, were requested to provide the Committee with the relevant information before the next meeting.

Monitoring the Use of International Standards

21. Article 12.4 of the Agreement states that the Committee shall "develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations". The European Community expressed their willingness to produce a background paper on the subject for the next meeting. The objective of this paper would be to help develop thinking in the area in order to incite further discussion.

22. A question was raised regarding the *number* of standards to be monitored - the key concern being how to determine which standards "have a major trade impact" (Article 12.4). A highly focused approach directed towards the more relevant standards for the work of the Committee was urged. Such an approach would also serve the desired purpose of indicating to international organizations where, in the view of the Committee, the priorities lie.

23. The international organizations were asked if they could inform the Committee, at its next meeting, of the current situation regarding the acceptance of their standards by governments. The Secretariat was requested to prepare a document, in cooperation with the three observer international organizations, establishing a list of existing international standards, guidelines and recommendations, and, to the extent practical, include an indication as to when these were adopted and last revised.

Technical Assistance

24. The Chairman recalled that through Article 9 of the Agreement Members had agreed to facilitate the provision of technical assistance to other Members, either bilaterally or through international organizations. In this regard, the Secretariat made a brief presentation concerning their activities.

(i) *Seminars.* In cooperation with the Secretariats of the Codex Alimentarius, OIE and IPPC, regional seminars were being organized in various developing countries. The objective of these seminars was basically to explain the obligations of Member countries under the SPS Agreement and how the work of the three international organizations mentioned above could assist countries in meeting them. The first seminar was held in Bangkok in November 1994. Three more are currently scheduled for 1995 - one in Mexico City (11-12 May) and two in Africa (South Africa and Senegal, tentatively in November). However, funding posed serious problems with regard to participation of the relevant government officials and the organization of further seminars.

- (ii) *Information booklet.* The Secretariat had published an information booklet entitled "Understanding the SPS Agreement". The booklet, designed for public use, deals particularly with food safety issues and is available at the Secretariat.
- (iii) *Geneva-based assistance.* In addition, the Secretariat continues to have Geneva based meetings with delegations at their request, in order to provide information and assistance.

25. The FAO/Codex Alimentarius representative presented a paper (G/SPS/W/11) concerning FAO's activities in assisting developing countries. The technical assistance activities of the OIE, as presented during the meeting, were reported in G/SPS/W/8.

Other Business

Internal Regulatory Processes

26. Several participants introduced papers which they had prepared providing summary descriptions of their internal SPS regulatory processes. These are available as SPS documents:

- Australia G/SPS/W/5
- Canada G/SPS/W/4
- New Zealand G/SPS/W/3
- United States G/SPS/W/6

Other delegations were encouraged to also provide such information as this would further transparency and understanding in the area. The Committee would, in addition, welcome information regarding any changes or amendments to the national regulatory procedures in the Member countries resulting from the SPS Agreement.

Practice for Exchange of Information

27. It was noted that Articles 4 and 6 of the Agreement could potentially require an extensive exchange of documentation. The point was made that the respective responsibilities of parties in producing information which would allow SPS measures to be established, or a decision in this regard to be made, needed further clarification. The United States presented a draft paper on the subject of data requirement for the assessment of disease-free area claims to help initiate discussion on this matter. The question was posed as to whether international organizations could provide any guidance for the Committee in this respect, based on existing practices.

28. It was concluded that it would be useful for the Committee to learn more about existing arrangements regarding the exchange of documentation between parties, and to this end, Members and the observer organizations were encouraged to provide relevant information. The Committee agreed to revert to this matter at its next meeting under an agenda item entitled "Identification of practices for exchange of information".

Other

29. The Committee **agreed** that the papers presented and/or submitted during the course of the meeting, amended as appropriate, be issued as SPS documents.

30. The Chairman requested the Secretariat to prepare on its own responsibility a summary of the main points of the meeting.

Date and Proposed Agenda of Next Meeting

31. The second meeting of the SPS Committee is tentatively scheduled for 26-27 June 1995, beginning at 3:00 PM on Monday, 26 June.

32. The following provisional agenda was agreed:

- A. Adoption of the agenda
- B. Rules of procedure
- C. Observers: international organizations
- D. Notification:
 - Guidelines
 - Consideration of specific notifications received
- E. Monitoring of use of international standards
- F. Risk assessment
- G. Consistency in risk management
- H. Identification of practices for exchange of information
- I. Technical assistance
- J. Other business
- K. Date and agenda of next meeting