

Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON
26-27 JUNE 1995

Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its second meeting on 26-27 June 1995 under the chairmanship of Ambassador Kari Bergholm (Finland).
2. With additions regarding points to be raised under Other Business, the agenda of the meeting, contained in WTO/AIR/103, was adopted.

Rules of Procedure

3. Pending finalization of the Rules of Procedure by the Council on Trade in Goods, the Committee decided to continue to operate on the basis of the working procedures (G/SPS/1) agreed upon at the Committee's previous meeting on 29-30 March 1995.

Observers

4. The Committee agreed to encourage observer governments participating in the work of the Committee to provide information relevant to the implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures (the "Agreement") (G/SPS/3).
5. Concerning observership of intergovernmental international organizations, the Committee agreed, on an *ad hoc* basis pending adoption of formal guidelines by the General Council, to invite the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) to participate as observers in the present and subsequent meetings of the Committee until a final decision is taken on the matter. The Committee agreed to revert to the request for observer status from the OECD and the Inter-American Institute for Agricultural Cooperation (IICA) at its next meeting.
6. The representative of Canada suggested that the Committee should consider inviting the International Standards Organization (ISO) to participate as an observer given that the work of the ISO was of increasing importance and relevance to the Committee. The European Community supported this view, and furthermore, noted the significant amount of work, particularly in the plant health area, which was carried out by regional organizations. The Committee agreed to consider the question of observer status on a case-by-case basis.

Notification

7. The Committee agreed on clarifications to the recommended notification procedures (G/SPS/12/Rev.1) and on a format for emergency measures (G/SPS/4).

8. The representative of the European Community presented a paper (G/SPS/W/14) on the implementation of SPS notification requirements by the European Community and its Member states. He stressed that all comments by WTO Members should be addressed to both the Community Enquiry Point and the contact point in the relevant Member state. Further clarifications will be provided by the European Community in a revision of its document.

9. With regard to individual notifications, it was agreed that questions or concerns relating to any SPS measures which had been notified in advance of a meeting of the Committee would normally be considered to be "on the agenda" of each meeting. Members who wished to discuss a particular notification were urged, to the extent possible, to so indicate to the Secretariat and the country concerned as far as possible in advance of a meeting. Shortly before each meeting the Secretariat will circulate a document listing all notifications received since the prior two meetings; however copies of all notifications would not normally be in the room at each meeting. Delegations were reminded that notifications were distributed only to local delegations and missions.

10. The New Zealand delegate raised a number of questions about the large number of Mexican SPS notifications issued in late May 1995. While also concerned about the reason behind the high volume of notifications themselves, New Zealand's main concern regarded the fact that many of the notifications (either emergency standards or ordinary SPS regulations) had been circulated only after the entry into force of the measures in question. The late submission of notifications hampered the basic transparency objective of the Agreement (Annex B), and, particularly, the opportunity for WTO Members to comment effectively on the proposed measures. Furthermore, he pointed out that paragraph six of Annex B of the Agreement required that emergency measures be notified immediately and include an explanation of the reasons for urgency. The New Zealand delegate also wondered why the extension (in validity) of existing emergency measures could not have been notified in advance. Lastly, the Committee was informed that New Zealand was submitting bilateral comments to Malaysia with respect to SPS notification G/SPS/N/MYS/1.

11. The representative of Mexico informed the Committee that the bulk of the notifications submitted were aimed at the elimination of various pests and diseases in Mexico. The notifications were extensions of measures applied in 1994 and had been notified to the Committee only for the sake of transparency. The Mexican delegate doubted whether the measures in question had significant effects on trade.

12. The European Community noted that the recommended time period to be allowed for comments on notifications, sixty days, had not been respected in all cases by Members. Furthermore he noted that some notifications were incomplete or incorrectly presented. He informed the Committee that the European Community would shortly be providing a number of notifications in the veterinary field as a result of the process of harmonizing import requirements among Member states.

13. As requested by the Committee at its March meeting, the Secretariat presented a document indicating problems arising with notifications received (G/SPS/W/17).

14. The Secretariat was requested to prepare a list of national notification bodies, given that Enquiry Points were not necessarily the national authority designated as the notification body.

Monitoring of Use of International Standards

15. The Chairman recalled that Article 12:4 of the Agreement requires the Committee to develop a procedure to monitor the use of international standards. In this context, following a request by the Committee at its March meeting, the standard-setting organizations provided the lists of international standards contained in G/SPS/W/18 and Corr. 1 (Codex); G/SPS/W/21 (OIE) and G/SPS/W/23 (IPPC). The Committee expressed its gratitude for the cooperation offered by the above-mentioned standard-setting organizations.

16. The representative of the FAO/WHO Codex Alimentarius Commission noted that any relevant information arising at the Codex Commission's session during the first week of July 1995 would be conveyed to the Committee, including the decisions taken with regard to those standards presented for adoption at the meeting. He provided a Codex document "Implementation of the Uruguay Round of Multilateral Trade Negotiations" (ALINORM 95/7 Part 2) containing information on the acceptance procedure for Codex standards.

17. The representative of the OIE presented document G/SPS/W/21 and brought to the Committee's attention the recent adoption in May 1995 of an international health code for aquatic animals which covered fish, molluscs and could in the future include crustacea. Furthermore, he stressed the procedures adopted by the International Committee of the OIE to recognize countries free from certain animal diseases, particularly Foot-and-Mouth Disease (FMD) and rinderpest. Finally, the OIE representative informed that the International Committee would consider at its meeting in May 1996 the way in which OIE recommendations were applied by its Members in the context of international trade.

18. The representative of Uruguay proposed that each Member submit a list of those standards and recommendations which they considered to be of major trade importance. The Secretariat could then compile a summary of these standards which could be put forward for Members to determine their position in relation to these norms. The Uruguayan delegate suggested that this could be a first step in deciding which international standards were most important for the work of the Committee.

19. The European Community informed the Committee that it was in the process of preparing a document on the subject of monitoring international standards and that the document would be issued in advance of the next Committee meeting.

20. A number of delegations suggested the Committee should await the paper being prepared by the European Community before taking any decision on how work in this area should be advanced. The European Community was urged to submit the paper well in advance of the next meeting as well as to take into consideration the points discussed. The Chairman noted that it would be useful if the paper were not only a reflection of principles but also included concrete proposals on how to tackle the problem on a practical basis.

Risk Assessment

21. The Chairman recalled that at the March meeting the representatives of the OIE, Codex and IPPC had provided information regarding the use of risk analysis in their work (G/SPS/W/8, G/SPS/W/9 and G/SPS/W/10, respectively). The Committee again thanked the standard-setting organizations for their contributions and encouraged them to proceed in the development of international risk management methodologies and to keep the Committee up to date on their results.

22. New Zealand submitted a paper on its use of risk assessment procedures (G/SPS/W/20). This paper exemplifies procedures within the area of animal quarantine (salmon imported from Canada), plant materials (pest introduction), and food safety.

23. The representative of Canada indicated the need to distinguish between the biological aspects of risk, as described in New Zealand's paper, and the associated political concerns. He also noted that Canada and Argentina were in the process of undertaking quantitative risk assessment (Canada on foot-and-mouth disease in Argentina and Argentina on porcine respiratory syndrome in Canada). The representatives of Uruguay and Argentina indicated that they were involved in bilateral work relevant to the Agreement with respect to beef exports destined to the United States.

24. The representative of the European Community agreed that non-quantitative risk assessment could be "objective, repeatable and transparent" (as stated in the New Zealand paper), and noted the importance of quantitative risk assessment in SPS measures. Furthermore, he informed the Committee that the European Community was in the process of establishing a pest risk analysis on the introduction of pine-wood nematode from North America. This work would represent a model on how pest-risk analysis could be carried out in the future using the most recent guidelines which have been developed by the IPPC and FAO.

25. The representative of Argentina raised a question regarding the role of the Committee in the area of risk assessment. His concern was that the work of the Committee was becoming too technical and that the issues still to be settled should more appropriately be addressed by the standard-setting organizations. It was observed that it was not the task of the Committee to develop risk assessment methodologies; however, it was up to the Member State governments to base their decisions on risk assessment while taking into account risk assessment techniques developed by the relevant standard-setting organizations (Article 5:1 of the Agreement). Considering the Committee's early stage of work and that risk assessment was an emerging discipline where the concepts built into the Agreement and used in a trade environment were new, it was useful to many Members of the Committee to share knowledge and experiences with regard to how governments applied risk analysis procedures. It was agreed that the Committee would, for the time being, and with the objective of enriching mutual understanding in the area, keep the issue of risk assessment on its agenda.

26. The Australian delegation tabled a paper on risk assessment and management in setting food standards in Australia for discussion at the next meeting of the Committee (G/SPS/W/24).

Consistency in Risk Management

27. The Chairman recalled that Article 5:5 of the Agreement requires the Committee to develop guidelines to further the implementation of consistency in risk management. At its March meeting, the Committee initiated a discussion of this issue based on a note (G/SPS/W/5) provided by Australia. As requested at that meeting, the Secretariat had prepared a background paper describing the negotiating history of this provision (G/SPS/W/16). The objective of the paper was to further Members' understanding of the reasons why this provision was included in the Agreement and to address the tasks before the Committee in this area.

28. The representative of the United States noted that there could be some confusion of terms, and that it might be useful to develop a common understanding of the meaning of the terms frequently used in the Committee.

29. The delegate of Argentina indicated that there were several levels of consistency and not all of them were relevant to the work of the Committee. Inconsistencies in the ways a country interpreted

an international standard, or the way risk assessment methodologies and procedures were developed, were technical issues better dealt with at regional level or by the relevant international standard-setting organizations. However, with regard to the application of an international standard, the Committee's role was clear as an inconsistent approach in the way a country applied an international standard could well lead to a barrier to trade. She stressed that the application of an international standard *per se* did not ensure consistency in risk management. There was a need to distinguish between these different levels, or types, of consistency in order to better direct the work of the Committee. Risk assessment was a technical tool which would produce a number of alternative options for the decision-making powers to act upon. Argentina proposed that the Committee request all Members to report on their current practices to ensure consistency in the application of international standards.

30. The representative of Japan stressed that the criteria for human life and health, and that for animal and plant life and health, should be kept separate as stipulated in the Agreement. He suggested that the Committee should first discuss consistency on a national level before continuing on to the international level. The importing country always bore the risk of introduction of pests or diseases; so it was essential that the exporting country provides the importing country with the information necessary for the importing country to conduct an appropriate risk assessment. Furthermore he noted that risk assessment was highly technical and that close cooperation with the relevant standard-setting organizations was important.

31. The Committee agreed that the heading of the agenda item "Consistency in risk management" be changed to "Consistency in the application of the concept of the appropriate level of protection" for the next meeting.

Identification of Practices for Exchange of Information

32. The Chairman recalled that at the March meeting the discussion under this agenda item had been based on an informal paper from the United States, which had been distributed to the Committee in a revised form (G/SPS/W/25). This paper described how the exchange of information is undertaken with respect to plant-related commodities, animal products and live animals. New Zealand announced that it would circulate a similar paper regarding bilateral quarantine agreements as applied in the plant area.

33. The Chairman noted that the Agreement covered several provisions requiring the exchange of information, including requirements concerning approval procedures and recognition of pest- and disease-free areas, as well as the exchange of information concerning the determination of equivalence.

34. The Australian delegate raised the question regarding what information would be reasonable for an importing country to request, and, secondly, what obligations the exporting country would have to supply such information. He pointed out that information on the conventional practice between countries in this regard could to a large extent be attained from the relevant standard-setting organizations, and agreed to draft such a request. The representative of the European Community agreed with the need for discipline regarding how much information an exporting country would be obliged to supply in order to satisfy an importing country's demands.

35. The representative of the OIE suggested that the Committee carefully consider the nature of the relationship between the relevant standard-setting organizations and the Committee and how work between these organizations should be conducted in the future.

Technical Assistance

36. The Chairman recalled that observer organizations had reported on their technical assistance activities at the March meeting and that these statements had been circulated as documents G/SPS/W/8 and G/SPS/W/11. In this regard, the Secretariat made a brief presentation concerning WTO activities, other than the day-to-day Geneva-based technical assistance, aimed at providing information and assistance to those seeking it:

- (i) *Regional Technical Seminars for developing countries.* These were described by the Secretariat at the March meeting of the Committee (G/SPS/R/1, page 4). In May 1995 a seminar was held in Mexico and two are scheduled for November 1995 in Africa. The first of these will be held in Pretoria, South Africa and the other in Dakar, Senegal. Again it was stressed that funding posed a serious problem with regard to the participation of African countries.
- (ii) *Seminar organized by OIE.* At this seminar concerning risk analysis with regards to animal health and trade held on 23 May 1995, the WTO Secretariat addressed SPS questions, with particular emphasis on implications for developing countries.
- (iii) *Special Session on Notification Requirements.* A session on all WTO notification requirements, including those related to the Agreement, had been held on 16 May 1995 in Geneva.

37. The Korean delegate underscored the difficulty experienced by developing countries in fully understanding the concepts, terms and conditions of the Agreement. Referring to Article 9 of the Agreement, he urged Members to reinforce their activities in the area of technical assistance.

Other Business

Internal Regulatory Processes

38. The Japanese delegation presented a paper on its regulatory framework and processes for development of sanitary and phytosanitary measures (G/SPS/W/26).

Consultations

39. The representative of the United States informed the Committee that his country had held consultations with the government of the Republic of Korea under the provision of Article 4 of the Dispute Settlement Understanding with regard to two matters relevant under the Agreement, the first relating to inspection and testing methods and the second concerning government mandated shelf-life (WT/DS3/1 of 26 April 1995 and WT/DS5/1 of 3 May 1995, respectively). The delegate also noted that Canada had joined the consultations related to shelf-life measures.

40. The representative of Korea informed the Committee that although the consultations had been productive and useful there remained a high degree of ambiguity and lack of clear guidance in the actual implementation of the Agreement. He noted that on most of the issues discussed during the consultations the parties had been unable to identify relevant international standards. Furthermore, there appeared to be a range of diverse practices maintained by different countries. Korea stressed that it was the task of the Committee to shed light on such aspects in the implementation of the Agreement, taking due consideration of the different levels of development among Members.

Other

41. The Chairman drew the Committee's attention to a paper entitled: "Decisions taken by the OIE International Committee at the 63rd General Session Related to the SPS Agreement", provided by the OIE (G/SPS/W/22).

Date and Proposed Agenda of Next Meeting

42. The Chairman noted that consultations were continuing with regard to the special meeting on transparency, which the Committee had suggested be organized jointly with the TBT Committee to discuss the technical implementation of the transparency provisions. The intention remained to have such a joint meeting in October 1995.

43. The next regular meeting of the Committee was tentatively scheduled for 15-16 November 1995.

44. The Chairman proposed that some new items be added to the agenda for the next meeting. Members could be invited to provide information regarding their implementation of the Agreement, such as that provided by Japan and other Members on their regulatory procedures. It might also be useful to regularly request the relevant standard-setting observer organizations to provide information on any matters of particular interest to the Committee which may arise from their work but not be covered under other items of the agenda. It was also suggested that issues regarding Enquiry Points be considered by the Committee, particularly any matters which might arise from the proposed special meeting on transparency.

45. The following provisional agenda was agreed:

- A. Adoption of the agenda
- B. Observers
- C. Implementation of the Agreement -- information from Members
- D. Matters of interest arising from the work of observer organizations
- E. Transparency:
 - Enquiry Points
 - Notification - Consideration of specific notifications received
- F. Monitoring of use of international standards
- G. Risk assessment
- H. Consistency in the application of the concept of the appropriate level of protection
- I. Identification of practices for exchange of information
- J. Technical assistance
- K. Other business
- L. Date and agenda of next meeting