

Committee on Sanitary and Phytosanitary Measures

**SUMMARY OF THE MEETING HELD ON
15-16 NOVEMBER 1995**

Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures ("the Committee") held its third meeting on 15-16 November 1995 under the chairmanship of Ambassador Kari Bergholm (Finland).
2. The agenda proposed in WTO/AIR/202, including additions enumerated in the airgram, and with some additional issues raised under Other Business was adopted.

Observers

3. Observers from the Codex Alimentarius Commission, the OIE (Office International des Epizooties), the IPPC (International Plant Protection Convention), the FAO and the WHO were welcomed. Furthermore, the Committee agreed, on an *ad hoc* basis, to invite the ITC (International Trade Centre) and the ISO (International Standards Organization) as observers, the latter in view of the directly relevant work undertaken by ISO related to food safety. A decision with respect to the OECD was deferred in the absence of a specific request from this organization. Pending the adoption of formal guidelines by the General Council, relating to regional inter-governmental organizations and non-governmental organizations, the Committee agreed to revert to the request for observer status from the Inter-American Institute for Agricultural Cooperation (IICA) and the International Seed Federation at a future meeting.

Implementation of the Agreement - Information from Members

4. Members were invited to inform the Committee of any measures they had taken which were relevant to the implementation of the Agreement, or specific problems which they had encountered in this regard. Information had been previously provided on national regulatory procedures by Australia (G/SPS/W/7), Canada (G/SPS/W/4), Japan (G/SPS/W/26), New Zealand (G/SPS/W/3) and the United States (G/SPS/W/6).
5. The representative of Chile presented a paper on Chile's regulatory framework for the elaboration and adoption of sanitary and phytosanitary measures (G/SPS/W/39).
6. In response to a question regarding the time-frame for US regulatory procedures (as described in G/SPS/W/6), the representative of the United States noted that a time table was not possible as the delays involved depended on comments received on the proposed SPS measure, and the extent to which these entailed further modifications of the proposal.

7. The delegate from the United States expressed serious concern that the Korean government had not, in its opinion, implemented the United States-Korean settlement on shelf-life as notified on 20 July (G/SPS/W/27). The full statement made by the United States, as well as the response from Korea, are reproduced in G/SPS/W/41 and /43, respectively. The Canadian and European Community representatives also expressed concern regarding access to the Korean market in this respect. Canada informed the Committee that it had requested Article XXII consultations with Korea relating to shelf-life determination for bottled water and the prohibition of the use of ozonation.

8. The Korean representative confirmed that bottled water was excluded from the United States-Korea settlement. Korea was, however, willing to enter into consultations with Canada to solve the issue to the mutual benefit of both countries.

Matters of interest arising from the work of Observer Organizations

9. Representatives from the Codex (G/SPS/W/42), IPPC (G/SPS/W/44), OIE and the WHO (G/SPS/W/37) reported on their recent activities of interest to the work of the SPS Committee.

10. The representative of Codex reported that at the 21st Session of the Codex Alimentarius Commission (CAC) in July 1995, a number of steps had been taken in order for the CAC to respond more comprehensively to the needs of both the SPS and TBT (Technical Barriers to Trade) Agreements. Furthermore, the FAO had, at its 28th Session, strongly supported the scientifically based standard-setting process used by the CAC both because of its importance to FAO Member States and because of FAO's commitment in helping these members implement the results of the Uruguay Round.

11. The Committee was informed that WTO Deputy Director-General Hoda had held high-level consultations with his counterparts in the FAO, WHO and OIE. One result of those consultations had been the suggestion that the SPS Committee consider the resource needs of the standard-setting organizations at its current meeting. The Codex representative stressed that the Codex work programme was stretched to the limit and that any further requests for expansion or acceleration of their work should be considered only to the extent additional resources were made available. The representatives of the IPPC and of the OIE indicated that their organizations faced similar constraints.

12. Many participants expressed their appreciation for the work of the standard-setting organizations, as well as sympathy with regard to their resource needs. Some participants noted that the SPS Committee was not the appropriate body to address the budgetary needs of the standard-setting organizations and did not have the competence to take any decisions in this regard. The representative of the United States informed the Committee that it was endeavouring to stimulate more active participation of producer and consumer groups in the Codex process, mobilizing the use of non-governmental resources.

Transparency

13. The Chairman informed the Committee that the Special joint SPS/TBT meeting on the transparency provisions of both Agreements, held on 6-7 November 1995, had provided a good opportunity for officials directly involved with the preparation of notifications and in the operation of Enquiry Points to discuss related practical and technical matters. Although no decisions had been taken, a number of suggestions emanated from the special meeting, as reported in G/SPS/W/33. While the report will be considered in more detail at the next Committee meeting, the Committee already agreed that E-mail addresses be added to the list of Enquiry Points (documents in the /ENQ/ series). In addition, the Secretariat agreed to give Members the option to indicate one single address, even if not the local mission, where notifications could be *mailed*.

14. Most participants supported a proposal by the United States that SPS notifications be de-restricted to enhance the efficiency of the handling of notifications as well as the transparency objectives of the SPS Agreement. Although under existing procedures the Committees could take decisions (*ad hoc*) with regard to the de-restriction of its documents, some Members felt that any decisions would be premature and that the Committee should await a horizontal decision by the General Council on document derestriction. The Committee agreed to revert to this issue at its next meeting.

15. With regard to the functioning of the notification procedures under the SPS Agreement, the representative of the European Community stressed the importance of clarity; the substance and objective of the proposed measure should be clearly discernable from the notification in order for it to serve its intended purpose. Furthermore, he emphasized the importance of Members having sufficient time to comment on these notifications and, also, for Members to respond adequately to requests for information on notifications.

16. At its June 1995 meeting, the Committee approved a separate format to be used for the notification of emergency measures according to paragraph 6 of Annex B of the SPS Agreement (G/SPS/4). Recommended procedures for the use of such a format were subsequently suggested by the Secretariat (G/SPS/W/30). The Secretariat was requested to revise the recommended procedures to take into account the comments and suggestions made by delegations for consideration at the next meeting of the Committee.

17. Members who had not yet provided the name and address of their single national notification authority (G/SPS/5) were requested to provide the information to the Secretariat as quickly as possible.

Monitoring the Use of International Standards

18. Articles 3:5 and 12:4 of the SPS Agreement state that the Committee shall, in conjunction with the relevant international organizations, develop procedures to monitor the use of international standards of major trade importance. The observer organizations have, to this end, provided documentation regarding their existing international standards, guidelines and recommendations - contained in documents G/SPS/W/18 and Corr.1 (Codex standards), G/SPS/W/21 (OIE standards) and G/SPS/W/23 (IPPC standards). The organizations were invited to regularly update this information.

19. The European Community informed the Committee that it was finalizing the document it has agreed to prepare regarding a proposal for the monitoring of international harmonization. The Committee was advised that the document would be made available in advance of the next meeting.

Risk Assessment

20. The representative of Australia introduced a revised version of its earlier paper entitled "Risk Assessment and Management in Setting Food Standards for Additives and Contaminants in Australia", circulated as G/SPS/W/24/Rev.1.

21. The representative of Japan provided information on the current situation of risk assessment in Japan with regard to both animal and plant health. He indicated that in the area of animal health, Japan's quarantine measures were mainly based on non-quantitative risk assessment. A specialist group had been set up to apply risk assessment on an experimental basis and this group would, during the fiscal year 1995, work on the topic of "Risk of introduction and outbreak of Foot and Mouth Disease (FMD) disease in importing beef from Uruguay".

22. The representative of Uruguay voiced his satisfaction with - and gratitude towards - countries that had worked with Uruguay in the context of risk assessment and FMD. He informed the Committee that there had been a significant and fruitful exchange between Uruguay and other Members which had led to positive results in terms of work undertaken by the European Community, the United States and, now, Japan.

23. The representative of Chile inquired whether delegations had examples or experiences from relevant quantitative risk assessment studies that could be shared with the Committee. The representative of Norway suggested that the Committee should compile concrete examples of different approaches to risk assessment, and that the field of quantitative analysis needed further work. The representative of Argentina agreed that it would be useful for the Committee to concentrate on trade-relevant cases of risk assessment, but should avoid venturing into the areas of competence of the standard-setting organizations.

Consistency in the Application of the Concept of the Appropriate Level of Protection

24. The Chairman recalled that Article 5:5 of the Agreement required the Committee to develop guidelines to further the implementation of consistency in the application of the concept of the appropriate level of protection. Preliminary ideas had been discussed at previous meetings on the basis of a document put forward by Australia (G/SPS/W/5) and a note on the drafting history of this provision provided by the Secretariat (G/SPS/W/16).

25. The representative of the United States indicated that his government had spent considerable time and effort trying to develop draft guidelines that would further the practical implementation of this provision, taking into consideration the above-mentioned papers. However, the theoretical nature of the subject, the lack of practical examples and the confusion of terms had thwarted their efforts. In the view of the representative of the United States, the lack of guidelines on consistency did not nullify the effectiveness of the SPS Agreement, given the obligation embodied in the language of Article 5:5: "...to avoid arbitrary and unjustifiable distinctions...". While not suggesting the Committee abandon an effort to develop guidelines, he suggested that in the near term the Committee might better progress if it focused on other tasks, such as the development of procedures to monitor the use of international standards, guidelines and recommendations. Under the circumstances, the United States suggested that the Chairman conduct informal consultations with individual Members in order to identify ways to bring the work of the Committee forward in this area.

26. Most participants supported the suggestion of the United States, noting that while the importance of this provision was indisputable, Members were finding the provision difficult to deal with on the practical level. Furthermore, it was noted that there remained a divergence of opinions with regard to the meaning of "consistency in the application of the concept of the appropriate level of protection". The representative of Korea stressed the importance of taking into consideration the diverse technical and economic conditions of Members as set out in Article 5:6 of the SPS Agreement.

27. It was agreed that the Chairman would consult informally with interested delegations with the objective of clarifying different understandings of the concept of consistency and to endeavour to identify how the Committee could most effectively proceed.

Other Specific SPS Issues

28. A number of Members had suggested that the Committee begin to consider common or "generic" SPS trade concerns, as foreseen in Article 12:2 of the Agreement, and the Chairman proposed that such issues be given separate headings in the agenda of future meetings.

29. The Committee had already begun to address one such generic issue at its June 1995 meeting, namely the *identification of practices and requirements for the exchange of information* between Members. The United States had previously provided the Committee with a paper regarding its practices in this respect (G/SPS/W/25).

30. The representative of New Zealand introduced a paper on his government's approach with regard to the development and implementation of plant import health standards (G/SPS/W/36). He observed that the preparation of this information for the Committee had helped their own systematization of the processes involved in the area and encouraged other delegations to provide similar information. He further suggested that it could be useful to look for common elements in WTO Members' approaches to the subject.

31. The representative of Chile introduced a document (G/SPS/W/38) describing the different multilateral and bilateral agreements currently in effect in the sanitary and phytosanitary field in which Chile participates.

32. The representative of Australia introduced a paper on the "Development and Application of Residue Limits to Foods in Trade under WTO SPS Principles" (G/SPS/W/34). Delegations commended the Australian document as one that addressed precisely an issue of a generic nature where the trade implications were potentially significant and where the importance and appropriateness for discussion in the SPS Committee was clear. The representative of Codex informed the Committee that parallel work in this area was being done and would be forthcoming. The Chairman noted the significance of exchanging information with the Codex in this area. Contributions from Members on other generic issues related to the implementation of the SPS Agreement were encouraged.

Technical Assistance

33. The Secretariat reported on the regional seminars it had organized in Africa, one in Dakar, Senegal (2-3 November 1995), and the other in Pretoria, South Africa (7-8 November 1995). Foreign participation in Dakar had been meagre, primarily due to lack of financial support for delegates, but also due to problems related to the dissemination of information in the region, despite considerable efforts on the part of the Secretariat to offset this. In Pretoria, on the other hand, participation had been satisfactory. The seminars had identified problems with regard to (i) transparency mechanisms (notification procedures and Enquiry Points); (ii) the infrastructure of sanitary and phytosanitary services; (iii) confusion with regard to the use of national, regional or international standards; (iv) the use of risk assessment, and lastly, (v) the perception that developed countries are requiring stricter standards than those set out by the relevant international organizations.

34. The Secretariat stressed the need for follow-up to these two seminars and acknowledged with appreciation the generous contribution made by Norway for technical assistance; a small part of this might be used for technical assistance related to the SPS Agreement. Another Member had offered to sponsor seminars for Central and Eastern European countries. It was also the Secretariat's intention to hold a seminar in southern Asia in 1996. Appreciation was expressed to the Codex, OIE and the IPPC for their helpful and forthcoming participation in these seminars.

35. The representative of the Codex noted the critical importance of the seminars as a means to make governments aware of the SPS Agreement. He indicated that the FAO would soon provide a revision of the paper on technical assistance which it had been submitted at the first meeting of the Committee (G/SPS/W/11). The representative of the WHO noted that its document, circulated as G/SPS/W/37, also included information on technical assistance. Furthermore, he informed the Committee of an effort undertaken by the WHO to encourage the health sector, on an international level, to become more involved in the work of the SPS Committee.

36. The representative of Argentina emphasized that greater dissemination and greater participation in similar seminars was necessary. He noted that the OIE Regional Commission for the Americas will meet in Havana, Cuba, March 1996 and indicated that this could provide a good opportunity to provide further information about the SPS Agreement. Chile informed the Committee that the SPS Seminar which had been held in May 1995 in Mexico had led to a national seminar in Chile, with plentiful participation, where SPS and TBT issues had been discussed.

Other Business

Calendar of meetings in 1996

37. The Committee agreed on the following tentative calendar of meetings for 1996 (the dates are preliminary and subject to further confirmation):

March 20-21

May 29-30

October 8-9

Rules of Procedure

38. The Chairman recalled that the Committee had, at its March 1995 meeting, agreed on interim working procedures pending adoption by the Council for Trade in Goods of its own Rules of Procedure. In the light of the fact that the Council had now adopted its Rules of Procedure, and that many other Committees had done likewise, the Chairman suggested that the Secretariat draft proposed rules of procedure for discussion at the next meeting of the SPS Committee.

Biosafety

39. The representative of New Zealand drew the Committee's attention to an area which could potentially have implications for the SPS Agreement and for the work of the Committee, namely, the intention of the Convention on Biodiversity (Djakarta, Indonesia, 6-17 November 1995) to launch negotiations on a protocol on biosafety. Although the exact scope of the negotiations was yet unclear, they were expected to focus on trans-boundary movement of living modified organisms. The New Zealand delegation maintained that this could have important potential ramifications for the SPS Agreement and was therefore an area where co-ordination between the government officials in the relevant areas would be important.

Other Issues

40. The Committee took note of the General Council's recommendation regarding decisions which may have financial implication.

41. The Secretariat briefly reported on the activities of the Working Group on Notification Procedures.
42. The Chairman noted that he had been requested by the Chairman of the Council in Trade and Goods to submit a brief factual report regarding the work of the SPS Committee in 1995, which he would submit under his own responsibility (G/L/38).

Date and Agenda of next Meeting

43. The following provisional agenda for the meeting of the 20-21 March 1995 (tentative date) was agreed:
- A. Adoption of the agenda
 - B. Observers
 - C. Rules of Procedure
 - D. Implementation of the Agreement -- information from Members
 - E. Matters of interest arising from the work of observer organizations
 - F. Transparency Provisions:
 - Consideration of specific notifications received
 - Proposed modifications to the notification formats, guidelines and procedures
 - Any matters related to the operation of Enquiry Points
 - G. Monitoring of use of international standards
 - H. Risk assessment (general approach and description of actual cases of risk assessment)
 - I. Consistency
 - J. Identification of practices for exchange of information
 - K. Development and application of residue limits
 - L. Other SPS trade issues
 - M. Technical assistance
 - N. Other business
 - O. Agenda of next meeting