

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

Proposal by Chile

Revision

The following communication, dated 16 June 2004, is being circulated at the request of the delegation of Chile.

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The Committee on Sanitary and Phytosanitary Measures,

*Reaffirming* the right and the obligation of Members to establish sanitary and phytosanitary measures necessary to ensure the protection of human, animal and plant life or health and the protection of their territory from other damage caused by the entry, establishment or spread of pests and diseases, in accordance with the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement);

*Considering* that paragraph 1 of Article 12 of the SPS Agreement stipulates that the SPS Committee shall carry out the functions necessary to implement the provisions of the Agreement and the furtherance of its objectives, in particular with respect to harmonization, and that paragraph 3 of the same Article encourages the Committee to maintain close contact with the relevant international organizations with the objective of securing the best scientific and technical advice for the administration of the Agreement and in order to ensure that all unnecessary duplication of effort is avoided;

*Recognizing* that Article 6 of the SPS Agreement (Adaptation to Regional Conditions) encourages Members to ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area from which the product originated and to which the product is destined;

*Desiring* to make operational the provisions of Article 6 of the SPS Agreement;

*Taking into account* the specific concerns raised by exporting Members regarding the difficulties involved in obtaining recognition by importing Members of their sanitary and phytosanitary status;

*Recognizing* that transparency, exchange of information, and promotion of confidence and credibility between importing and exporting countries are essential to the recognition of sanitary and phytosanitary status;

*Recognizing* that regionalization is an increasingly important factor in trade among all Members and that it can be applied regardless of a country's size or level of development;

*Recalling that:*

- The harmonization of international standards is one of the key provisions of the SPS Agreement;
- The Codex Alimentarius Commission (CAC), the World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPC) are recognized as the international standard-setting bodies for sanitary and phytosanitary measures in the SPS Agreement;
- The OIE and IPPC are the appropriate bodies to undertake the task of developing guidelines for reaching regionalization decisions. The OIE does, upon request and in the context of OIE standards, evaluate members' status with respect to foot-and-mouth disease, rinderpest, and bovine spongiform encephalopathy. The IPPC, however, does not conduct similar evaluations of phytosanitary status among its members.
- Participation of member countries in the work of the OIE and IPPC and timely reporting of disease or pest outbreaks contribute significantly to building the credibility importing countries must rely upon in making regionalization decisions;

*Seeking* more effective implementation of the principle of regionalization by strengthening the implementation of the recommendations of the scientific reference organizations for the SPS Agreement:

*Decides as follows:*

1. Adaptation of measures to regional conditions can be applied to smaller ecosystems, part of a country, all of a country, or all or parts of several countries.
2. The exporting Member shall provide scientific and technical information to show in an objective manner its sanitary or phytosanitary status, accompanied by an official declaration from the national regulatory body attesting that the area is a pest- or disease-free area or an area of low pest or disease prevalence. This information may include, *inter alia*, reference to relevant international standards, or to the relevant risk assessment guaranteeing or supporting the sanitary or phytosanitary status of the zone in question. In addition, the exporting Member shall provide reasonable access, upon request, to the importing Member for inspecting, testing and other relevant procedures for recognition of regionalization.
3. To facilitate the implementation of Article 6 of the SPS Agreement on regionalization, at the request of the exporting Member the importing Member shall explain the requirements and stages involved in obtaining recognition of sanitary or phytosanitary status with respect to a given pest or disease.
4. In order to initiate the process of recognition of regionalization, the importing Member shall take account of the plant-pest- or animal-disease-free areas and areas of low plant pest or animal disease prevalence as established by the exporting Member's competent national institution and in accordance with the guidelines of the international reference institutions.
5. In keeping with the standards, guidelines or recommendations developed by the international reference organizations, the importing Member shall take into consideration, *inter alia*, relevant risk

analyses, risk management processes, systems in place to establish and maintain sanitary and phytosanitary measures, and surveillance and monitoring programmes.

6. In the case of a first decision on regionalization, an evaluation by the importing Member of the administrative structure of the regulatory bodies and the programmes they implement with a view to prevention, control and eradication, as applicable, will be required where necessary and appropriate. Any regionalization decision must consider the strength and credibility of the veterinary or phytosanitary infrastructure of the exporting region(s). The veterinary or plant health authorities must demonstrate their ability to maintain freedom from specified pests or diseases to create the necessary confidence on the part of the importing country. A key element in this is credibility as well as timely, consistent and accurate disease and pest reporting, as called for by the OIE and the IPPC.

7. Importing Members shall respond as quickly as possible to the request of an exporting Member for recognition of regionalization, and shall normally begin the examination of an application for recognition, for a given pest or disease, of the status of pest- or disease-free area or area of low pest or disease prevalence within a period not exceeding two months.

8. The consideration by an importing Member of a request submitted by an exporting Member for the recognition of the status of pest- or disease-free area or area of low pest or disease prevalence with respect to a given plant pest or animal disease in its territory shall not in itself be a sufficient reason to disrupt or suspend ongoing imports, in compliance with the requirements in force, with respect to related products from that Member.

9. The importing Member, when considering a request for sanitary or phytosanitary recognition of an area, shall not impose demands in excess of those relating to the pest or disease in question, and shall analyse the science-based and technical information provided by the exporting Member on its sanitary and phytosanitary measures with a view to determining whether those measures achieve the adequate level of protection against the risk under consideration.

10. Where its evaluation and verification of the information provided by the exporting country leads to a favourable conclusion, the importing Member shall launch its internal administrative procedures with a view to recognizing the requested regionalization as rapidly as possible and no later than a deadline to be established, taking account of the complexity of the particular case, with the agreement of both the importing and exporting Member. The willingness of the exporting country to collect and share this information can significantly affect the time required. If it rejects the request for sanitary or phytosanitary recognition, the importing Member shall provide, in writing, technical grounds for its decision so that the exporting Member can modify and adapt its system with a view to seeking recognition once again.

11. An expedited process for recognition of sanitary status could be applied in the following situations:

- (a) When there has been official recognition following verification by one of the SPS Agreement's international reference organizations;
- (b) When there has been an outbreak in a previously recognized area which, once the problem was eliminated, was restored its former status;
- (c) When the infrastructure and operation of the responsible veterinary or phytosanitary service are sufficiently familiar owing to sanitary or phytosanitary recognition with respect to other pests or diseases, or to existing trade relations.

12. In accordance with Article 9 of the Agreement (Technical Assistance), a Member shall give full consideration to requests by other Members, especially developing country Members, for appropriate technical assistance to facilitate the implementation of Article 6 (Adaptation to Regional Conditions).

13. The SPS Committee recognizes the need for guidelines for the determination of pest or disease-free areas and areas of low pest or disease prevalence, and shall urge the OIE and the IPPC to continue, as appropriate, to draw up guidelines on animal and plant health respectively. These organizations, together with the CAC, shall be invited to keep the SPS Committee regularly informed regarding their activities relating to the concept of adaptation to regional conditions or zoning.

14. The SPS Committee shall encourage the OIE to continue and expand its work on the verification of recognition of sanitary status with respect to different specific diseases. It shall also encourage the IPPC and regional organizations under its supervision to begin working along the same lines.

15. Members shall periodically provide the SPS Committee with information on their experience regarding the implementation of Article 6 of the SPS Agreement. In particular, Members are urged to notify the SPS Committee of ongoing negotiations for the recognition of regionalization and of any other agreement concerning the recognition of pest- or disease-free areas and areas of low pest or disease prevalence.

16. As regards transparency, the Committee shall examine the need to set up a formal mechanism in this respect.

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