

Committee on Sanitary and Phytosanitary Measures

**SUGGESTED CLARIFICATION OF NOTIFICATION GUIDELINES**

**Note by the Secretariat**

At the meeting of 29-30 March 1995, the concern was raised that the agreed notification guidelines (G/SPS/2) were unclear with regard to a Member's assessment of whether a proposed SPS regulation would have a significant effect on trade in terms of Paragraph 5 of Annex B of the SPS Agreement and hence should be the subject of a notification. In particular, the question was raised whether the guidelines (paragraph 2) implied that the Member proposing a SPS regulation must undertake a detailed or extensive examination of the potential difficulties producers in other Members might experience in their efforts to comply with the proposed regulation. It was observed that many Members did not have the means to identify and analyze such potential difficulties. The Secretariat was requested to suggest possible clarification of this guideline.

During the consultations which resulted in the proposed notification guidelines, the concern of participants had been to ensure that in cases where importing Members had doubts about the effect of a proposed SPS regulation on trade, they notify it anyway (PC/IPL/6, paragraph 2 refers). The concern was thus to ensure that any possible significant change be notified, not that detailed analysis be carried out regarding its possible effect on trade. In light of this background and expressed concerns, the Committee may wish to consider the following revision of this guideline (changes highlighted):

2. **Application of Annex B, Paragraph 5 (Preambular Part) of the SPS Agreement:**

**Recommendation:**

For the purposes of Annex B, Paragraph 5 in the SPS Agreement, the concept of "significant effect on trade of other Members" may refer to the effect on trade:

- of one technical regulation only or of various technical regulations in combination,
- in a specific product, group of products or products in general, and
- between two or more Members (countries).

When assessing whether the SPS regulation has a significant ~~the significance of the~~ effect on trade of technical regulations, the Member concerned should take into consideration, to the extent relevant information is available, such elements as the value or other importance of imports in respect of the importing and/or exporting Members concerned, whether from other Members individually or collectively, the potential growth of such imports, and difficulties for producers in other Members to comply with the proposed technical regulations. The concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.