

**SECOND REVIEW OF THE OPERATION AND IMPLEMENTATION
OF THE SPS AGREEMENT**

Comments from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on
Monitoring the Use of International Standards (Articles 3.5 and 12.4)

I. BACKGROUND

1. Article 3.4 of the SPS Agreement states that, "Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures".

2. Members are deemed, therefore, to have the right and the obligation to actively participate in the process of the SPS-related international or regional organizations in developing, amending and reviewing relevant standards, guidelines and recommendations, in order that the greatest possible harmonization of SPS measures with international standards may be achieved. Furthermore, in its Background Document (G/SPS/GEN/510, paragraph 22) the SPS Committee considered that it was more appropriate for the concerns of the developing countries to be addressed within the relevant international organizations.

3. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu is a developing country Member of the WTO and, in addition, a member of only one of the relevant international organizations in this context, the OIE. We are not a member of the CODEX or of the IPPC-associated organizations. There is no direct channel through which we are able to submit our comments to these latter organizations, or participate in the review process of draft international standards. Our interests, and those of other Members in a similar situation, could thus be impaired by the application of international standards set by the above-mentioned international organizations. We take the opportunity in this paper to share with Members our comments and proposals.

II. SUGGESTED WAYS TO IMPROVE MEMBERS' PARTICIPATION

4. Various suggestions have already been put forward on ways to improve Members' awareness of, and participation in, the work of international standardizing bodies. In our view, the implementation by the SPS Committee of the following could produce some extremely beneficial results:

- (a) Continue to request from the relevant bodies regular updates on the latest developments in international standardization;

- (b) Invite WTO Members to assess and identify on a regular basis the priority issues concerning international standardization;
- (c) Ask the relevant standardizing bodies to:
 - (i) evaluate the practicability of video conferencing the technical committee meetings for those interested Members that do not have the funding or the resources to attend, and/or,
 - (ii) invite interested WTO Members as guests or observers to the technical committee meetings, even if they are not members of the standardizing bodies.
- (d) Members benefiting from any of the above would be asked to report progress to the SPS Committee.

III. THE SPS COMMITTEE AS A "BRIDGE" TO THE INTERNATIONAL ORGANIZATIONS

5. At the same time, because most of the above-mentioned initiatives will have to come from the international standardizing bodies themselves, we would propose that the SPS Committee, in cooperation with the international organizations, seeks to establish adequate trans-organization mechanisms that will allow us, and Members in situations similar to ours, the opportunity of participating in their operations and thereby ensuring that ideas are implemented effectively and equitably.

6. To be more precise, we envisage the SPS Committee acting as the "bridge" to the standardizing bodies, in order that the interests under the SPS Agreement, not just of Members in special situations but those of all WTO Members, may be secured.

IV. AD HOC ADMINISTRATIVE REGIME

7. If such a system of direct cooperation with the international organizations via the SPS Committee cannot be established, we suggest that the WTO shall (at least passively) act to ensure that the rights and interests of WTO Members will not be impaired in any international standards developed and adopted without adequate Member participation. In this respect, we propose that the SPS Committee establishes an *ad hoc* administrative regime for the purposes of reviewing the adequacy of each relevant international standard under free trade conditions, receiving claims and complaints submitted by Members with regard to the implementation of such international standards, and assisting Members in overcoming relevant difficulties.

8. We believe that such a mechanism will be required in order to establish a regular communication channel between the SPS Committee and the relevant international standardization bodies, if all Members' needs in this respect are to be properly addressed. Tangible results should also be produced that can be used to evaluate the effectiveness of the technical assistance provided.
