

MONITORING THE PROCESS OF INTERNATIONAL HARMONIZATION

Submission by the European Community

The following paper has been received from the delegation of the European Community with the request that it be circulated to all Committee Members and considered under the proposed agenda item relating to the monitoring of use of international standards (Item G).

Article 12(4) of the SPS Agreement

The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or phytosanitary measures which the Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason therefor, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such a notification and explanation is given according to the procedures of Annex B.

Introduction

1. Article 12(4) of the SPS Agreement sets out a series of actions for the SPS Committee and for Members. The Committee is specifically charged with developing a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations and to draw up a list of international standards, guidelines or recommendations considered to have a major trade impact. Once this list is established, Members are charged with providing and updating details of their use of the international standards, guidelines or recommendations considered to have a major trade impact.

List of International Standards, Guidelines and Recommendations

2. The first requirement to develop a monitoring procedure is the establishment by the Committee of a list of international standards, guidelines or recommendations to be monitored. To enable the Committee to fulfil this task an inventory of international standards is needed. Article 3(4) of the SPS Agreement refers to "the relevant international organizations" and in particular the Codex, the OIE and the IPPC. These three organizations have already provided material on their standards (documents G/SPS/W/18 Codex Alimentarius Commission; G/SPS/W/21 Office International des Epizooties; G/SPS/W/23 International Plant Protection Organization), and have agreed to provide the SPS Committee with updates on changes and developments. The Committee can draw up an inventory from the information provided by the international organizations.

3. In the initial stages the scope of a monitoring system should be limited to the standards, guidelines or recommendations developed by the so-called "three sisters". The Committee should, at a subsequent stage, consider standards, guidelines or recommendations produced by international organizations other than the three specifically cited in the SPS Agreement.

List of International Standards, Guidelines or Recommendations which have
a Major Trade Impact

4. To assess whether an international standard, guideline or recommendation has a major trade impact requires an objective approach. This assessment must involve at least the following elements:

- (a) Whether or not the international standard, guideline or recommendation is applied to imports;
- (b) the level of uptake by Members of the international standard, guideline or recommendation;
- (c) the problems experienced in trade.

5. In addition to the elements identified in paragraph 5, an assessment of the standard itself is necessary. For example, a standard established on the basis of production in certain areas of the world may not be applicable to the same extent in other areas where factors of disease, climate and risk are different.

6. Most of the information set out in paragraph 4 is not currently available to the Committee. The work programmes of the international organizations for the reassessment of existing standards would provide a useful contribution, but the rest of the information needs to be provided by Members, notably on the trade effects of the use of SPS measures and the level of trade. A standard format for this information should be developed, to enable the Committee to draw up the first list of international standards, etc. to be included in the monitoring process.

7. In addition to the work of assessing which existing standards have a major impact of trade, the monitoring of the process of international harmonization should also seek to identify areas where the absence of an international standard creates problems for trade or where the existing standard is outdated. This information could provide a basis for recommendations to the international organizations for their future work.

The Monitoring Process

8. The above paragraphs show the amount of information gathering and analysis that is necessary to establish a monitoring system. Such a basis is necessary to meet the obligation provided for in Article 12(4) of the SPS Agreement.

9. Article 3(1) of the SPS Agreement sets out the objective of "harmonizing sanitary and phytosanitary measures on as wide a basis as possible". It is not the task of the monitoring process to include every standard, guideline or recommendation that pose trade problems for one or another Member. However, the system should be capable of monitoring those which pose serious problems to trade for a range of Members, and the system must be capable of modification and development to meet changing circumstances. The Committee will therefore need to establish priorities for monitoring, and to review at least yearly the list of standards, guidelines or recommendations subject to the monitoring process and make any necessary modifications or additions to that list.

10. Article 12(4) provides that the list of international standards, guidelines or recommendations determined to have a major trade impact should include an indication by Members of those standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to those standards can enjoy access to their markets, and that where a Member does not apply a standard, guidelines or recommendation the Member should provide an indication of the reason therefor, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. The only system which can currently produce information on the level of uptake of standards, guidelines or recommendations by Members is the Codex acceptance procedure. The Codex have agreed to provide information on acceptance, but this is unlikely to provide a full picture of the use of such standards, guidelines or recommendations. Therefore the majority of this information will have to be provided by Members.

11. To assist Members in supplying information on the use or non-use of international standards, guidelines or recommendations, and in collating the results, a standard format should be used to draw together the information.

Initial Actions

12. The above paragraph sets out the principles and general lines for the operation of a monitoring system. It is essential that whatever mechanism is put in place be capable of operation without creating unnecessary bureaucracy and be useful in the information provided. A main element in this aspect will be the choice of how many, and which standards are chosen. A further choice would need to be made as to whether the monitoring process should focus solely on individual standards, or rather to look at the range of sanitary and/or phytosanitary standards, guidelines or recommendations affecting trade in an individual product, animal or plant.

13. It is difficult for the Committee to take a definitive view on this in the absence of any practical experience of the operation of a monitoring system. It is therefore suggested that a pilot project be run, covering a limited area of both individual international standards, guidelines or recommendations and one product area. For example, the pilot could be carried out on the basis of the following:

OIE Chapter 2.1.1 Foot and mouth disease
Codex Code on the General Principles of Food Hygiene (CAC/RCP)

Sanitary measures applicable to trade in canned sardines

or alternatives, as decided upon by the Committee.

14. Following the collation of information from the pilot exercise, the Committee should be in a clearer position to determine how to progress further for the full monitoring system. Other information necessary for the full monitoring process should be gathered together during the operation of the pilot programme, notably as set out under paragraphs 15(d) and (e) below.

Suggested Actions

15. The Committee is invited to examine the ideas set out in this paper and to suggest the following actions:

- (a) To confirm with the Codex, the OIE and the IPPC that they will supply the Committee with updates on changes or additions to their standards, guidelines or recommendations;
- (b) to maintain an inventory of SPS relevant standards, guidelines or recommendations;
- (c) to confirm with the Codex that they will supply details on the acceptance of their standards, guidelines or recommendations, and provide regular updates;
- (d) to consider establishing a list of international organizations other than Codex, the OIE and the IPPC whose standards, guidelines or recommendations could be considered for inclusion in the monitoring process;
- (e) to invite Members to identify those areas for which the use or non-use of the international standards, guidelines or recommendations of the Codex, the OIE or the IPPC they consider to have a major trade impact, in accordance with format MONITORING/1;
- (f) to invite Members to identify any areas where the absence of international standards, guidelines or recommendations poses significant trade problems in accordance with format MONITORING/2;
- (g) to agree to set up a pilot programme to be completed in a short period, as set out in paragraphs 12-14 above;
- (h) to maintain this issue on the agenda for the next meeting of the SPS Committee, notably for discussion of:
 - (i) practical elements of how the monitoring process would operate;
 - (ii) the need for further guidelines for identifying those standards, guidelines or recommendations which are considered to have a major trade impact;
 - (iii) to review the information supplied by Members and the further information provided by the international organizations;
 - (iv) the drawing up by the SPS Committee of the first list of international standards, etc. to be included under the monitoring process for which Members would be invited to supply the Committee with information on the use or non-use of such international standards, etc. and to draw up a standard format for such information.

Committee on Sanitary and Phytosanitary Measures

MONITORING/1

1. Member to Agreement:
2. International Standard, guideline or recommendation or product/animal/plant:
3. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):
4. Problems experienced in trade:

Committee on Sanitary and Phytosanitary Measures

MONITORING/2

1. Member to Agreement:
2. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):
3. Sanitary or phytosanitary measures for which no international standard exists:
4. Problems experienced in trade: