

RELATIONSHIP BETWEEN THE WTO/SPS AGREEMENT AND
INTERNATIONAL STANDARDIZATION ORGANIZATIONS

Communication from Uruguay at the Meeting of 8-9 October 1996

Working documents G/SPS/W/65 and G/SPS/W/69 have been submitted by the delegation of Uruguay for the purpose of drawing the SPS Committee's attention to a broader topic than the specific content of the documents. The substance that it is hoped to discuss is the nature, scope and implementation of the relationship between the WTO/SPS Agreement and the relevant organizations, in this particular case - in view of the revision of the text - with the International Plant Protection Convention.

In this context, the WTO/SPS Agreement may be viewed as an interface between the tasks of the WTO and those of international technical standardization organizations, for which reason, it delegates to such organizations the technical aspects of the development and harmonization of international technical standards, guidelines and recommendations - sanitary and phytosanitary measures as defined in Annex A - establishing a set of principles and disciplines to regulate their application in international trade.

When looked at from the legal standpoint, it seems to be a one-way situation, since the SPS expressly recognizes the work of relevant organizations in elaborating (harmonized) international technical standards, guidelines and recommendations. However, since the technical standards, guidelines and recommendations of such organizations are not binding, except under the provisions of the WTO/SPS, an informal two-way linkage is created between the respective legal instruments.

The situation is somewhat complex, since both parties (the SPS Agreement and the relevant organizations) have an independent legal framework and there is no formal mechanism to ensure consistency between them. For example, the definition of "phytosanitary measure", is different under the SPS and the IPPC (G/SPS/W/65), the scope of the IPPC has been interpreted as exclusively relating to "quarantine pests" (FAO standards), but scope of the SPS and of the IOE extend to other types of pest, and so on (G/SPS/W/65).

Obviously, these and other contradictions may have a great impact on and even hinder the achievement of the objectives established by the SPS Agreement reached in the Uruguay Round. Accordingly, it has to be inferred that the amendment of the text of the present IPPC should be a central topic commanding the constant attention of the WTO/SPS Committee, which must ensure consistency between the new IPPC text and the SPS Agreement. In the case of the IPPC, consistency mainly includes matters relating to scope, incorporation of SPS principles and disciplines and accuracy of definitions and terms.

Without prejudice to the foregoing, the delegation of Uruguay is of the view that the legal frameworks governing the relevant organizations should be discussed and negotiated within the respective legal settings and that it is for the SPS Committee to do the follow-up, making any assessments it deems

appropriate. It also considers that articulating international instruments in order to make them consistent should be done basically by implementing the internal coordination mechanisms of the Members for the purposes of maintaining consistent positions in the various forums.

On the basis of these considerations, the delegation of Uruguay proposes that the WTO/SPS Committee, in the light of the revision of the IPPC, should recommend:

- To Members to create internal coordination mechanisms that will make for consistency in the positions to be adopted towards the new IPPC text, with the commitments entered into under the WTO/SPS Agreement, particularly with regard to scope, definitions and terms and incorporation of principles and disciplines.
- In this context, that it should be emphasized that the IPPC should cover all the legitimate objectives concerning pest regulation in international trade that are found in the WTO/SPS, inasmuch as the cosmetic effects (not directly related to the proposed use of plants) of pests, should not be considered in the new text of the Convention, since any regulation of them as defects in merchantable quality (not as pests) comes under the provisions of the WTO/TBT Agreement.
- To agree on a framework for the identification of priority activities relating to the interests of the WTO/SPS Agreement and those of the relevant organizations.
- To keep item (i) Revision of the International Plant Protection Convention, as a standing item under K "Matters of interest arising from the work of observer organizations" on the Committee's agenda until the new text is approved.