

THE OIE ROLE IN RELATION TO THE SPS COMMITTEE

Paper for the SPS Committee - October 2012

The following communication, received on 9 October 2012, is being circulated at the request of the World Organization for Animal Health (OIE).

1. This paper provides input to the SPS Committee's deliberations on the role of observer organisations, specifically the OIE, as one of the Three Sisters.

I. SUMMARY

2. In the context of the SPS Committee, the OIE, as one of the Three Sisters, advises on sanitary measures relevant to international trade, including on risk assessment and on the relationship between national measures and the OIE's science-based standards. The application by trading countries of the standards set by the Three Sisters is the best way to facilitate safe international trade. Active participation by the Three Sisters is an important feature of SPS Committee meetings, and can contribute to the prevention and resolution of trade disputes.

3. To further strengthen this participation, it is proposed that the SPS Committee Chair routinely invite the Three Sisters to comment, as appropriate, on the bilateral trade concerns placed on the Committee agenda by Members. For example, the OIE would be invited to speak when the trade concern relates to an animal disease or zoonosis; Codex would be invited to speak when the trade concern relates to a chemical residue issue or other relevant food safety concerns, and the IPPC would be invited to address issues about phytosanitary measures. The scope of the ISSO intervention would be to indicate if there is a relevant international standard, recommendation or guideline, and to assist the Committee to locate information that may be relevant to the matter under discussion.

4. The attention of WTO Members is also drawn to the OIE voluntary procedures for mediation of trade differences. These procedures are complementary to and do not conflict with the official WTO dispute settlement procedures. Members are encouraged to consider using these science-based procedures to help resolve differences and facilitate safe trade.

II. BACKGROUND

5. A workshop on the Relationship between the SPS Committee and International Standard Setting Organisations took place on 26 October 2009. The report of the workshop (G/SPS/R/57) contained 11 recommendations. OIE comments on the recommendations that are directly relevant to its work are in Annex 1.

6. On 25 June 2012 the Secretariat of the SPS Committee prepared a background document (G/SPS/GEN/1157) to assist Members in their consideration of the role of observers in the meetings of the SPS Committee and related matters.

7. A communication from Chile and the United States (G/SPS/W/267) on the involvement of ISSOs in the SPS Committee on specific trade concerns was circulated to Members on 3 July 2012.

8. Matters relating to observer organizations were discussed at an informal meeting, closed to observers, which was held on 9 July 2012.

III. DISCUSSION

A. THE THREE SISTERS IN THE CONTEXT OF THE WTO SPS AGREEMENT

9. The SPS Agreement recognizes the OIE, the International Plant Protection Convention (IPPC) and the Codex Alimentarius Commission, the so-called Three Sisters, as the relevant standard-setting bodies for animal health and zoonotic diseases, phytosanitary issues and food safety, respectively.

10. The Preamble to the SPS Agreement states "that it is desirable to further the use of harmonized sanitary (...) measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including (...) the International Office of Epizootics (OIE)¹".

11. The SPS Agreement also refers to and recognizes the standards developed by the Three Sisters in Article 3 (Harmonization) and in Annex A, paragraph 3:

– "International standards, guidelines and recommendations (...)

(b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the ...(OIE)".

12. WTO Members may comply with their obligations under the SPS Agreement by basing their measures on relevant standards of the Three Sisters or by carrying out a scientific risk analysis, on which subject the Three Sisters also provide guidance.

B. THE STANDARDS, GUIDELINES AND RECOMMENDATIONS OF THE OIE

13. The OIE *Terrestrial Code* and *Aquatic Code* contain science-based standards for the surveillance reporting, prevention and control of diseases and for assuring safe international trade in animals and their products. Use of these standards, including for the transparent and timely notification of animal diseases and as the basis for sanitary measures and international veterinary certification, will prevent the introduction and spread of diseases of animals and, as appropriate, of humans.

14. The *Codes* provide guidance on the application, in the animal health context, of key principles found in the SPS Agreement, including risk analysis, equivalence, regionalisation and zoning. In particular the *Codes* facilitate the application of equivalence by the provision of multiple approaches to risk management.

15. Additional standards and recommendations (e.g. on disease diagnosis and vaccination) are found in the OIE *Manuals for terrestrial and aquatic animals*. Resolutions of the OIE World

¹ Now known as the World Organisation for Animal Health – while retaining the acronym "OIE".

Assembly on the official status of member countries for specified diseases, such as foot and mouth disease and bovine spongiform encephalopathy, embody the concept of regionalisation and offer important information to support safe international trade in animals and their products. Likewise, the OIE disease reporting and information dissemination functions that support transparency in the global animal disease situation enable member countries to apply and withdraw appropriate sanitary measures in a timely manner.

16. The OIE standard setting procedures provide for rapidity, responsiveness, scientific rigour and transparency, as outlined in Annex 2.

17. In addition to developing standards, guidelines and recommendations, the OIE has an informal mediation procedure, which provides for its members, on a voluntary basis, to resolve trade differences using an approach that is based on science and the correct application of the OIE standards. Reports of mediations are confidential to the parties, unless the parties have mutually agreed to the release of information.

C. THE OIE CONTRIBUTION TO THE WORK OF THE SPS COMMITTEE

18. The OIE, as one of the Three Sisters, provides regular updates to the SPS Committee on OIE activities relevant to standard setting, including on strategic issues and planning; relationships with other organizations, and capacity building activities to strengthen the capacity of member countries not only to apply the standards but also to participate in their development. The OIE maintains ongoing contact with the SPS Secretariat and makes regular interventions at Committee meetings to clarify the interpretation of its standards. The OIE emphasises science and transparency as the appropriate basis for the development and implementation of sanitary measures.

19. The discussion of bilateral trade concerns relating to animal diseases and zoonoses is a key part of the SPS Committee agenda. Here, the OIE provides advice relevant to the consistency of national measures with relevant international standards, guidelines and recommendations, and on new and emerging diseases of importance to trade.

20. The animal health related trade concerns that WTO Members discuss at Committee meetings often concern measures relating to bovine spongiform encephalopathy, foot and mouth disease or influenza. The failure of WTO Members to fully implement the OIE standards – in particular, those providing a basis for safe trade in relation to these diseases – is often a factor in these discussions. The OIE urges member countries to give higher priority to the implementation of the OIE standards as a key step to facilitate safe trade in animals and their products.

21. Under the SPS Agreement, WTO Members applying measures for animal diseases and zoonoses that are more restrictive than the OIE standards should conduct a science-based risk assessment as a basis for the measures. Here, again, the OIE can advise regarding the quality of risk assessments with reference to the existing OIE scientific standards and recommendations on risk analysis.

22. In the case of bilateral disagreements about trade measures, the OIE offers a voluntary mediation mechanism that is relatively rapid and less costly than the official WTO dispute settlement procedure. The emphasis is on transparency and the application of the OIE science-based standards as appropriate to the specific trade issue. The OIE encourages WTO Members to make more use of its mediation mechanism as a tool to resolve differences and facilitate safe trade.

D. CAPACITY BUILDING TO PROMOTE THE IMPLEMENTATION OF SPS STANDARDS

23. SPS capacity building is an important means to enhance the participation of OIE members in the development of standards, to improve understanding and ownership of standards and to raise awareness of the obligations that arise from the SPS Agreement. The OIE undertakes training and capacity building activities in collaboration with donors, national governments, and international and regional organizations, including joint OIE/FAO/WHO programmes to ensure seamless coverage of SPS issues relevant to animal and human health and compliance of Veterinary Services with OIE standards. The project PAN-SPSO² in Africa is a good case study for the importance and potential gains to be made by strengthening the participation of developing countries in standard setting activities.

24. The WTO Standards and Trade Development Facility (STDF), formed as a joint initiative of the OIE, WHO, FAO, World Bank and WTO with the goal of enhancing developing countries' capacities to meet SPS standards, is a key forum for exchange of relevant information on SPS capacity building activities. In addition to participating in STDF meetings and activities, the OIE regularly updates the SPS Committee about its capacity building programme. Representatives of the SPS Secretariat and the STDF Secretariat are invited to the annual OIE General Session, as well as OIE global conferences and other meetings relevant to the SPS agenda. The Director General of the OIE routinely informs Delegates of SPS related activities and, where feasible, OIE activities may be held "back-to-back" with SPS workshops.

IV CONCLUSIONS AND RECOMMENDATIONS

25. Under the WTO SPS Agreement, the Three Sisters are responsible for the provision of standards, guidelines and recommendations to support safe international trade. In the context of the SPS Committee, the OIE specifically advises on sanitary measures relevant to international trade in animals and their products, including on risk assessment and on the relationship between national measures and the OIE's science based standards. Active participation by the Three Sisters is an important feature of SPS Committee meetings.

26. To further strengthen this participation, it is proposed that the SPS Committee Chair routinely invite the Three Sisters to comment on the bilateral trade concerns placed on the Committee agenda by Members, as appropriate. For example, the OIE would be invited to speak when the trade concern relates to an animal disease or zoonosis. The scope of the intervention would be to indicate if there is a relevant international standard, recommendation or guideline, and to assist the Committee to locate information that may be relevant to the matter under discussion.

27. The attention of WTO Members is also drawn to the OIE voluntary procedures for mediation of trade differences. These procedures are complementary to and do not conflict with the official WTO dispute settlement procedures. Members are encouraged to consider using these procedures to help resolve differences and facilitate safe trade.

² PAN-SPSO is a partnership project between the African Union, the European Commission and the Africa Caribbean Pacific Secretariat (ACP) on behalf of seven African Regional Economic Communities. It involves 47 African countries.

ANNEX 1

OIE comments on the recommendations of the SPS Committee Workshop held on 26 October 2009 (G/SPS/R/57)

(2) *Increasing the number of joint capacity building activities*

Subject to the availability of resources, the OIE could support such an initiative.

(3) *Joint work on cross cutting issues*

Following a decision of the Codex Committee on General Principles, the OIE and the Codex Alimentarius Commission are preparing to collaborate in new work on the harmonisation of approaches to standard setting.

(4) *Coordination meetings of the Three sisters and the WTO Secretariat*

The OIE supports this proposal.

(7) *The SPS Committee transmitting information relating to trade issues...to the relevant Sister organisation) and*

(8) *Requesting the Three sisters to analyse the current specific trade concerns raised in the SPS Committee...*

The OIE considers that the most effective way to address points 7 and 8 is by strengthening the participation of the Three Sisters in the Specific Trade Concerns item of the regular Committee agenda.

(10) *Identifying ways to improve coordination at national level of the relevant representatives of the Three sisters and SPS representatives*

The OIE recommends continued emphasis on the SPS regional workshops, where relevant national representatives are encouraged to communicate and to form networks at regional level.

(11) *The establishment of a help desk to answer enquiries and provide information in each of the Three sisters and the WTO Secretariat.*

Enquiries on SPS related matters from national governments, the private sector and NGOs are handled directly by the OIE International Trade Department in OIE headquarters.

ANNEX 2

The OIE standard setting procedures: key aspects relating to transparency

- Standards are drafted by independent experts drawn from different OIE regions and selected on the basis of scientific excellence and geographical balance. Official mechanisms are in place to ensure the neutrality and scientific integrity of experts appointed to work with the OIE.
 - All reports of *ad hoc* expert Groups are reviewed by Specialist Commissions, comprising members elected by the World Assembly of National Delegates, and, as appropriate, by permanent Working Groups. These reviews particularly consider the proposed risk management options.
 - Reports of Specialist Commissions, Working Groups and *ad hoc* expert Groups are made available to members and the public via the OIE website.
 - OIE member countries have scheduled opportunities to comment on draft standards.
 - Member country comments are reviewed by the Specialist Commissions, which advise Delegates of their analysis and decisions on these comments by report on the OIE website.
 - All standards are adopted by the World Assembly, usually by consensus or, in rare cases, by a two thirds majority vote.
 - Each one of the 178 OIE member countries has an equal voice in the development and adoption of standards and each has a responsibility and an opportunity to engage with the OIE in this important work.
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