

**ARTICLES 6(2), 6(3) AND ANNEX A (3)(B): RECOGNITION OF THE CONCEPT  
OF PEST- OR DISEASE-FREE AREAS AS AN INTERNATIONAL STANDARD,  
GUIDELINE OR RECOMMENDATION**

Submission by South Africa

**Introduction**

1. Article 3(1) of the SPS Agreement requires that Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations where they exist. Should a country impose a higher standard than the international standard, it must be scientifically justified (Article 3(3)).

2. In Article 6(2) Members are required to recognize the concepts of pest- or disease-free areas while in Article 6(3), Members are required to provide evidence of disease-free areas. In the preamble, Article 3(4) and Annex A (3) of the Agreement, the international organizations accepted by the WTO as international standard-setting organizations, are indicated (Codex Alimentarius, OIE and IPPC).

**Deliberation**

3. Should a country declare a zone within its territory or the country in total to be free from a specific disease without the involvement of, or in accordance with, the guidelines of an international standard-setting organization, it can reasonably be accepted that the importing country would require evidence thereof in terms of Article 6(3). Further evidence in terms of Article 6(3) would also be necessary where a specific procedure or international guideline for declaration for zoning or freedom from disease does not exist or has not yet been adopted or not applied by an international standard-setting organization for a specific disease. However, if a country is **officially** recognized as disease-free by an international standard-setting organization and the allocated status is **officially** made known and published by such an international standard-setting organization, the request is that the status allocated by the international organization should also be recognized in terms of Article 6(2) of the Agreement.

4. The OIE has specific procedures in place for the official recognition of freedom from Foot-and-Mouth Disease, Rinderpest and Contagious Bovine Pleuropneumonia (CBPP). The OIE International Animal Health Code does make provision for other diseases where certain guidelines are proposed according to which a country can regard its territory to be free from a particular disease. However, the "status" of self-assessed freedom from disease relative to that of FMD, Rinderpest and CBPP should be perceived as different.

5. When the OIE recognizes a country or a zone within a country, as free from Foot-and-Mouth Disease, the Foot-and-Mouth Disease and other Epizootics Commission of the OIE only do it after a thorough investigation and a detailed evaluation. Allocation of freedom on recommendation by the FMD and other Epizootics Commission of the OIE is also only done by the International Committee of the OIE during its meeting in May every year. It can thus be reasoned that the **official** recognition

of free zones within a country by an international standard-setting organization (e.g. OIE) should also be perceived as an international standard and recognized and accepted as such by WTO Members.

6. It, however, happens that some countries support a vote in favour of allocation of freedom to a requesting Member country of the OIE at the meetings of the International Committee of the OIE, but during bilateral trade negotiations, refuse to acknowledge the allocated status. South Africa does not question the right of a Member to request further evidence in terms of Article 6(3) of the Agreement. It is however regarded as unnecessary to totally disregard the decision of the international organization by requesting a Member to submit all the evidence again as if the Member has never been allocated such a status. The evidence that was already submitted to an international organization and the findings of the scientific investigation by that organization should be taken as given and recognized as such.

7. South Africa is of the opinion that the non-recognition of the **officially** allocated status for freedom from disease, can be regarded as a trade restrictive measure in terms of Article 2(3) of the Agreement.

8. The view of South Africa is that the three international standard-setting organizations referred to in the preamble, Article 3(4) and Annex (3) of the Agreement should be allocated the status they deserve as accepted standard-setting organizations on scientific and technical matters for the SPS Committee.

9. South Africa would therefore respectfully request the Committee to express an opinion on the status of a decision of an international organization to **officially** allocate freedom from disease to a Member country of that organization who is also a Member of the WTO.

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