

TECHNICAL ASSISTANCE

Communication from Chile

I. GENERAL ASPECTS

1. The new framework provided by the World Trade Organization since 1995 has resulted not only in the obligations implied by membership, but also in the opportunity to obtain the benefits of its application. From the year 2000, all Member countries should meet all their obligations under the Agreement on Sanitary and Phytosanitary Measures (SPS) and ideally should be in a position to take advantage of the benefits of that Agreement. With that in mind, technical assistance takes on particular relevance, especially for developing countries, with regard to the extent to which they are prepared for full participation in the new framework, as well as the extent to which they have the necessary knowledge to exercise their rights as circumstances require.

2. Over the first few years, the WTO, through the Secretariat of the Committee on Sanitary and Phytosanitary Measures, and with support from, *inter alia*, FAO, OIE and WHO, carried out important capacity-building activities, with an emphasis on knowledge of the Agreements, aimed at developing and least-developed countries, while at the same time acquiring considerable information on the main difficulties which countries experience in implementing the Agreements. In the second phase, activities have been designed with greater emphasis on more specific issues relating to countries' interests and needs.

3. It should be pointed out, among other things, that the important work carried out should incorporate follow-up activities for the initial training, and that the various international organizations which offer assistance also need to coordinate successfully with a view to enhancing rather than duplicating efforts and resources. With regard to capacity-building, a country diagnosis must be made in the first instance in order to allow for the subsequent planning of training programmes. All domestic or local avenues must be exhausted before, on the basis of the initial diagnosis, plans are made to utilize the support of specialized international agencies, and/or bilateral support from countries of a greater level of development in the particular area.

4. A lack of communication and coordination at the domestic level has been visible both in developing countries and in some developed ones, with a failure to achieve an adequate exchange of opinions and experiences on sanitary and phytosanitary matters among the various agencies responsible and experts taking part in meetings of the Committee on Sanitary and Phytosanitary Measures, the Codex Committees, International Office of Epizootics (OIE) and International Plant Protection Convention.

5. From one developing country to another, there are substantial differences in the level of understanding and capacities with regard to the content and implementation of the SPS Agreement. Consequently, horizontal cooperation could also be a valuable means of assistance.

6. Until recently, a difference in sanitary conditions between two neighbouring countries constituted a trade advantage which enabled or prevented market access in some countries. Today, although such a difference continues to be an advantage, it is in the interests of a country free from a particular pest or disease to cooperate with its neighbour so that it can achieve the same status, thereby reducing the risk of infestation. Following a risk analysis of third markets, the enlargement of a free area will provide greater security, simultaneously reducing the pressure on the disease-free country while allowing the neighbouring country to obtain the consequent advantages. We can see examples of this in the agreements between Chile and Argentina and Chile and Peru to combat fruit flies.

7. The principles of the SPS Agreement have made it possible for developing countries to gain access to exacting markets, or for them to maintain such access in the face of any changes in the access rules. Some examples of this are the amount of products that have been allowed to enter the United States from Mexico following NAFTA; the access to Asian countries for Chilean fruit and vegetable products; the authorization for Argentine beef to enter the United States; the fact that the European Union has delayed application of maximum aflatoxin levels as an import requirement for some products (groundnuts, walnuts, chestnuts, etc.) and is discussing the scientific reasoning behind them. Prior to the Agreement, it was more difficult to assess or to discuss situations such as these. At the same time, it has been demonstrated that, with solid arguments, it is possible to achieve market access that previously seemed impossible. Consequently, it is very important for developing countries to have a proper understanding of the Agreement.

8. Given the fundamental importance of maintaining and raising sanitary conditions in food production, these needs must be reconciled with trade in food products at the international level. It is therefore particularly important that measures have appropriate justification, in an essentially technical area in which a distinction must be made between measures with a scientific basis and protectionist trade practices with other objectives.

9. One of the outcomes of the triennial review of the SPS Agreement was recognition of the need to improve the implementation of that Agreement in areas requiring a high degree of technical input (*inter alia*, risk analysis, regionalization, appropriate level of protection, coherence, equivalence and harmonization). It is especially important to strengthen understanding and implementation of the SPS Agreement. Given the large number of developing countries, technical assistance and special and differential treatment are very significant issues.

II. SPECIFIC ASPECTS

10. In more specific terms, we will refer to the areas in which most countries agree on the need for improvement in their understanding and implementation.

1. Transparency and notifications

11. Progress has been made in this area at the WTO level, insofar as most countries have notified their national notification authority and national enquiry point, but even something as simple as this has taken time to achieve. The national notification authorities and national enquiry points notified to the WTO need not only to be designated but also to be established, including their working requirements, operation, commitments and political support in their respective countries, so that they can function smoothly and play an important role in the implementation of transparency.

12. Countries have gradually begun to make notifications, and there has been a slow but steady improvement in what and how countries notify, despite the fact that some countries have yet to participate fully in this process.

Another problem that remains is the failure to allow sufficient time for comments, since in most cases the period allowed for comments is less than 60 days.

13. Support and communication between countries will be important in order to improve the way these mechanisms work, as will the use of computerized systems, in order to help provide the opportunity for timely comments. The process for making comments, the communication of comments received, and the opportunity for comments from third countries, are aspects in need of further development.

2. Harmonization

14. Particularly important for the developing countries is the concept of harmonization, insofar as an international standard may facilitate or hinder market access, has followed a process prior to its approval in which sufficient opportunity is made available for contributions by the parties, and has an objective scientific basis, free from individual commercial interests.

15. Consequently, it is very important for developing countries to participate in the process of developing standards, both in meetings and whenever there is a possibility of making comments or written proposals. Such participation will enable the position of the country to be reflected, so prior discussions with domestic experts are important, with a view to building a solid foundation.

16. It is important at the domestic level for countries to carry out the exercise of comparing existing national standards with international ones, in order to detect differences, to assess their justification or to adapt them. Many developing countries need to begin by obtaining and circulating international standards to the relevant domestic agencies.

17. Furthermore, with regard to exports, developing countries may compare statutory import requirements with international standards, with a view to requesting the justification for any such requirements that are found to be stricter.

3. Risk analysis

18. Risk analysis is one of the areas in which developing countries need most technical assistance, ranging from methodology to its practical application. It would be useful to keep a register of risk analysis experts, as well as a database of the most successful results, particularly in quantitative terms. At the national level, universities could be involved in order to widen the scope of risk analysis in the country.

III. RECOMMENDATIONS OR SUGGESTIONS FOR ASSISTANCE PROGRAMMES

1. General suggestions

19. Technical assistance and cooperation programmes for implementation of the WTO/SPS Agreement need to be coordinated, insofar as many ad hoc activities have been carried out as specific initiatives: these experiences could have been shared, but this has not been done. A coordinated plan for capacity building is required, partly due to the differences existing between countries, in order to avoid duplicating efforts, to maximize resources and to establish priority areas, with a view to improving understanding of the Agreement in the first instance, moving on to specific areas, preferably linked to practical application, at a later stage.

20. Given that a mixture of processes are currently used, it will be extremely important to establish a programme which includes diagnosis and follow-up, as well as a register of assistance

providers and beneficiaries (including institutions and countries). As the SPS Committee continues to establish principles and international scientific organizations to develop standards, it is very important for the beneficiary countries themselves to take the initiative in terms of their technical assistance programmes and needs, with a view to participating or enhancing their role in the bodies concerned.

2. Specific suggestions

Strengthening of sanitary programmes and services

21. It is important to begin with this essential aspect for the production of healthy food. After diagnosis, one of the main needs of developing countries is the strengthening of sanitary programmes and services, especially in the areas of protection, diagnosis, surveillance and, more generally, in matters relating to the eradication, control or alleviation of sanitary problems and the implementation of sanitary guarantee systems. Comprehensive technical assistance must include such matters in many developing countries.

Proof of sanitary condition

22. Once a given sanitary condition has been reached, it must be possible to prove that condition and to give guarantees that it will be maintained. To that end, technical experts and negotiators need to be well prepared with regard to the procedures, strategies and methodology for obtaining recognition. Technical assistance relating to inspection and certification systems that provide safety assurances needs to be reinforced.

Determination of the appropriate level of protection

23. In this controversial area, it will be extremely important to channel technical assistance efforts in the various international fora towards enabling developing countries to gain sufficient understanding to determine the appropriate level of protection and act coherently in the various decision-making areas of sanitary policy.

Adapting legislation

24. The domestic legislation of many developing countries still lacks the adequate infrastructure. Communication, cooperation and the transparency of rule-making procedures must be improved at the domestic level, and this also remains a priority for technical assistance.

Awareness of the WTO/SPS Agreement

25. Despite the fact that many efforts have been made, generally with positive results, a lack of awareness of the Agreement remains in many developing countries, which means that important opportunities to take advantage of the Agreement are lost. Technical assistance at this stage should probably focus on practical aspects and examples, given that the time that has elapsed since 1995 should enable this to take place.

Risk analysis

26. This is one of the areas in which developing countries most need technical assistance. They need to acquire information through, *inter alia*, information services, workshops and the development of practical applications with expert assistance, with a view to helping official agencies to structure risk analysis units in their countries.

Transparency

27. Support needs to be provided for the establishment and proper operation of national WTO notification authorities and enquiry points, as well as Codex contact points, in order to respond to queries and commitments, and to obtain the greatest possible benefit from those contact points and services in developed countries.

IV. CONCLUSIONS

- In general terms and considering the widely different capacity levels of developing countries in the various fields indicated, we suggest: to begin with a country diagnosis in order to define the country's own needs and capacities;
 - once needs have been defined, to define priorities on a thematic basis;
 - to provide and maintain information on the agencies, experts and countries which could supply technical assistance;
 - to provide and maintain information on the programmes of international organizations which offer assistance;
 - to develop the technical assistance programme required by the country, taking into account the prioritized requirements, potential assistance and providers of assistance;
 - to work on the implementation of the programme, using technical assistance providers from the country itself, and to subsequently contact foreign experts, countries or agencies which offer assistance in order to establish bilateral cooperation agreements with other developing and developed countries;
 - to include and to implement a follow-up programme;
 - to develop partial and final assessment stages in the programme, and
 - to consider the drafting of reports, with a view to circulating experiences which may be useful to other countries with similar needs.
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