

**PERU'S EXPERIENCES AND SUGGESTIONS REGARDING
THE IMPLEMENTATION OF THE SPS AGREEMENT**

Information for the Workshop on 31 March 2006

Communication from Peru

The following communication, received on 28 March 2006, is being circulated at the request of the delegation of Peru.

1. In preparation for the Workshop on the Implementation of the SPS Agreement, participants were asked to provide replies to the following questions.

What tools currently exist and how best can they be used to ensure the effective implementation of the SPS agreement at the national level?

2. First of all, it is necessary to establish what is meant by "effective implementation of the SPS Agreement". In Peru's opinion, it means that a country is fulfilling its basic obligations under the Agreement, which are:

- To apply fully the principle of transparency and ensure the operation of notification and enquiry points;
- to base SPS measures on scientific principles and on international standards, guidelines and recommendations where these exist;
- to recognize and apply the principles of regionalization and equivalence;
- to harmonize and standardize control, inspection and approval procedures;
- to implement sanitary and phytosanitary measures only to protect human, animal or plant life or health; and
- others.

3. "Effective implementation of the SPS Agreement" also means that a country has the capacity to defend its fundamental rights under the SPS Agreement. These include:

- The right to establish an appropriate level of protection and implement the sanitary and phytosanitary measures deemed necessary;

- the right to apply precautionary measures in the absence of scientific certainty;
- the right to require that trading partners refrain from restricting access for products without any scientific justification;
- the right to request recognition of equivalence;
- the right to request the recognition of pest or disease-free areas and areas of low pest or disease prevalence;
- the right to participate in the SPS Committee and the relevant international bodies; and
- other legitimate rights deriving from the SPS Agreement.

4. Therefore, if by "effective implementation of the SPS Agreement" we mean the fulfilment of SPS obligations and the defence of rights, it is, in Peru's experience, vital that the following fundamental factors exist in all countries. Any instrument used to implement the Agreement might be inadequate without these factors:

- (a) **Institutional framework** – A national authority with the express power and the capacity to establish and enforce sanitary and phytosanitary standards; if more than one national authority exists, functions and responsibilities must be clearly defined in accordance with the disciplines of the Agreement, as must appropriate coordination and interaction mechanisms. The proper functioning of notification and enquiry points is, in our experience, contingent upon the existence of a satisfactory institutional framework. A legal base consistent with international reference standards is also crucial.
- (b) **Technical and scientific capacity** – Existence of the physical infrastructure and knowledge needed to establish quarantine control and protection systems, carry out risk analysis and develop relevant sanitary and phytosanitary measures.
- (c) **Human and financial resources** – The two previous factors require an adequate resource base that enables the institutional framework to exercise its technical capacity and autonomy to address the various disciplines of the SPS Agreement.
- (d) **Private sector participation** – Existence of formal mechanisms to ensure participation by the organized private sector in the various levels of decision-making and implementation of the sanitary and phytosanitary measures. Efforts to overcome sanitary and phytosanitary restrictions and secure sustainable access to international markets must involve both the authorities and the private sector.

5. Within this context, and in Peru's experience, one instrument which ensures the effective and sustainable implementation of the SPS Agreement is a results-based planning and management system for the short, medium and long term based on the interlinkage of these four key factors.

What national mechanisms can be created to ensure that stakeholders are informed in a timely manner of new SPS requirements?

6. The authority responsible for the implementation of sanitary and phytosanitary measures must set up a database containing information on the private actors, whether individuals or entities, importers or exporters.
7. Each database must contain, *inter alia*, the names of natural or legal persons, e-mail addresses, postal addresses, trading partner information and the names of the products or items concerned. The database must also contain, wherever possible, the current f.o.b. value by country and tariff heading of both exported and imported products.
8. Notifications distributed through the WTO must be sent directly to the designated national authority and to other institutions linked to the SPS Agreement such as the Ministry of Foreign Affairs, the Ministry of Foreign Trade and the Ministry of the Economy. In our experience, this prevents delays and the duplication of efforts when handling notifications.
9. Within the national authority, it would be advisable for one single unit to be responsible for handling notifications. Such a unit should be given the task of classifying notifications and distributing them to the parties concerned with a view to receiving comments and adopting relevant measures.

How can developing country Members most effectively request SPS-related technical assistance?

10. Experience indicates that the ever-increasing visibility of sanitary and phytosanitary measures in international trade relations will lead to a gradual increase in the demand for technical assistance (including financial resources) to strengthen SPS capacity; and requests may well exceed the funds available.
11. Countries must therefore define their technical assistance priorities within the context of medium and long term plans and ensure the involvement of local actors in order to maximize the impact of investments. This task must be overseen by the authority or authorities responsible for the implementation of the SPS Agreement. The first step, therefore, is to identify and define properly the technical assistance priority areas. The PVS (Performance, Vision and Strategy) instrument of the Inter-American Institute for Cooperation on Agriculture (IICA) is a very useful tool in this respect.
12. Sanitary and phytosanitary measures are a complex matter involving as they do a variety of actors, levels and sectors. Consequently, the technical assistance provided should be aimed, first and foremost, at strengthening both the national authority responsible for sanitary and phytosanitary measures and the mechanism for liaising with the various actors and sectors.
13. The second step is the request for technical assistance. This can be made through various channels, including the WTO Committee on Sanitary and Phytosanitary Measures, the health services of donor countries, relevant international bodies such as the World Organisation for Animal Health (OIE), the International Plant Protection Convention (IPPC) and the Codex Alimentarius, and sources of multilateral financing such as the World Bank. In order to avoid the dispersion and duplication of efforts, the requests should, wherever possible, be organized and channelled by the authority or authorities responsible for the implementation of the SPS Agreement.
14. Official bodies whose job is to channel cooperation and technical assistance exist in almost all countries which offer and receive technical assistance. The authorities responsible for the

implementation of sanitary and phytosanitary measures could use these established mechanisms to request technical assistance.

15. The third step is the implementation of the technical assistance and the evaluation of its results. The main aim of evaluation is to determine how effective the assistance has been.

Can best practice in both the identification and the provision of technical assistance be identified?

16. The implementation of sanitary and phytosanitary measures involves two levels of technical assistance:

- (a) Technical assistance to resolve specific short term difficulties. This enables recipients to comply with the sanitary and phytosanitary requirements of trading partners; and
- (b) Technical assistance to help overcome structural weaknesses. This enables a country to implement the SPS Agreement in a steady and effective manner in the medium and long term.

17. If the technical assistance described in (b) is to be effective and have lasting results, it must form part of medium and long term plans which are drawn up in collaboration with the various SPS-related levels, sectors and actors.

How can technical assistance supply and demand be most effectively matched, priority areas identified and duplication of donor efforts avoided?

18. The existence in each country of short, medium and long term plans for the implementation of sanitary and phytosanitary measures will ensure that technical assistance needs are clearly identified. They are also of use for notifying the Committee on Sanitary and Phytosanitary Measures annually of countries' technical assistance requests. Donor countries, for their part, could provide notification of their offers of technical assistance, setting forth the terms of reference for access to the resources in question. In this respect, the WTO could establish some kind of body bringing together technical assistance donors and applicants, which would have the major advantage of preventing duplication and increasing the transparency of offers of assistance.
