

Committee on Sanitary and Phytosanitary Measures

**SUMMARY OF THE MEETING HELD ON
20-21 March 1996**

Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures ("the SPS Committee") held its fourth meeting on 20-21 March 1996 under the chairmanship of Ambassador Kari Bergholm (Finland).
2. The agenda proposed in WTO/AIR/293, with additions, was adopted.

Observers

3. The Chairman welcomed observers from the Codex Alimentarius Commission (Codex), OIE (Office International des Epizooties), IPPC (International Plant Protection Convention), FAO (Food and Agriculture Organization), and WHO (World Health Organization).
4. The SPS Committee granted observer status to the UNCTAD (the United Nations Conference on Trade and Development) on an *ad hoc* basis. With respect to the OECD, a decision on observership was deferred in the absence of a specific request. Pending the adoption of formal guidelines by the General Council relating to regional inter-governmental organizations and non-governmental organizations, no further action was taken on the requests for observer status from the Inter-American Institute for Agricultural Cooperation (IICA) and the International Seed Federation (FIS).

Rules of Procedures

5. A draft proposal for the Rules of Procedure for the SPS Committee had been discussed by interested Members at an informal meeting on 16 February 1996. The Proposed Rules of Procedure (G/SPS/W/48) were based on the previously agreed Working Procedures of the SPS Committee (G/SPS/1) and complemented by the Rules of Procedure for the meetings of the General Council (WT/L/79), except where these would not be appropriate.
6. The representative of India expressed concern about the manner in which statements by individual countries might be reflected in the Records of the SPS Committee meetings as proposed in Rule 36, and could not agree to the adoption of the Proposed Rules of Procedure at this time. The Chairman noted that in the absence of agreed Rules of Procedures, the existing Working Procedures for the SPS Committee remained valid.

Implementation of the Agreement

7. The representative of Chile informed the SPS Committee that Chile and the European Community were currently negotiating on matters relevant to the implementation of the SPS Agreement.

Matters of interest arising from the work of Observer Organizations

8. The representative of the WHO pointed out that the health sector, at the national level, was not always fully informed of the implications and consequences of the new WTO agreements (G/SPS/W/56). To further the objective of strengthening coordination between the appropriate government branches, a special information meeting would be organized on 20 May 1996 for the delegates attending the session of the World Health Assembly. Several Members agreed with the need to ensure that national health agencies gave appropriate attention to the work of the WHO with regard to food standards.

9. The representative of the IPPC informed the SPS Committee that work on nine new standards had commenced and that, hopefully, two or three of these would be adopted by the next FAO Conference. Furthermore, a review of the International Plant Protection Convention was currently underway. Issues for discussion included: the scope (coverage) of the Convention, potential new obligations resulting from the SPS Agreement and the possible establishment of a Commission. The final text of the amended Convention could be submitted to the FAO Conference in end-1997.

10. The representative of the OIE reported that the OIE Committee on Fish Diseases had proposed changes to the International Sanitary Code for Aquatic Animals. Subject to adoption by the International Committee of the OIE, a new version of the code would be available by the end of 1997. Also planned for 1997 was a revision of the first edition of the Diagnostic Manual for diseases affecting fish molluscs and crustaceans. Additionally, two documents were being drafted that were of relevance to the work of the SPS Committee. In the first document, related to recommendations regarding the future orientation of the activities of the OIE, it was suggested that the OIE focus on three main areas: (i) international standardization, (ii) zoosanitary information and (iii) the strengthening of cooperation with national veterinary services. The second report would address the technical application of OIE Standards by Member states in the context of the SPS Agreement.

11. The representative of the Codex reported that the February 1996 meeting of the Codex Committee on Food Import and Export Inspection Certification Systems (CCFICS) had advanced guidelines for the exchange of information between countries on rejections of imported foods to Step 8 for adoption by the Codex Alimentarius Commission. Secondly, the CCFICS had advanced guidelines for the design, operation, assessment and accreditation of Food Import and Export Inspection and Certification Systems to Step 5, for comments by member Governments. The latter document particularly concerned matters regarding risk analysis and the use of the HACCP system in that process. It was noted that the full report of the CCFICS meeting would be available through Members' Codex Contact Points. The SPS Committee was also informed that the FAO and the WHO were planning to hold a joint risk management consultation in early 1997.

Transparency

Consideration of Specific Notifications Received

12. The Chairman reminded the SPS Committee that in accordance with paragraph 3 of the working procedures (G/SPS/1), a Member "which proposes to raise any matter relating to a particular notification

in the course of a meeting shall give notice of its intention to the notifying Member concerned and the Secretariat, together with an outline of its concerns, as far as possible in advance of the meeting".

13. One Member noted the lack of adequate identification of tariff numbers in many notifications, and expressed concern that this could result in difficulties in case of disputes. It was also observed that more precision was needed with regard to the content, objective and rationale of the proposed measures, as well as the identification of the agency or national authority responsible for the provision of documentation. Concern was also expressed that the 60 day time-period allowed for comments was not always respected, that in numerous cases measures were implemented prior to notification, and that for many notifications the date of entry into force was not stated. Agencies responsible for the provision of information were requested to act within the recommended time-periods so as to avoid in the future the significant delays often experienced.

14. The SPS Committee considered the Proposed Modifications to the Recommended Notification Procedures (G/SPS/W/47). Although most Members agreed with the proposed modifications, the representatives of Korea and Egypt stated that they could not accept Point B - "Timing of Notifications". They indicated that the recommendation on this point needed to be more flexible in order to accommodate national legislative procedures. Other Members stressed the desirability to keep the notification procedures for the SPS and TBT Committees as similar as possible and noted that the proposed provision was identical to the text already adopted by the TBT Committee. They considered that the recommendation well reflected the obligation in Annex B, paragraph 5(b) of the SPS Agreement. The SPS Committee agreed to revert to this issue at its next meeting.

15. The representative of Japan indicated his government's acceptance of the recommended procedures on the understanding that with regard to Point E(c), "Handling of comments on notifications", the extension of the comment period shall not apply when the notifying country provides copies of documents if requested, and, in the case of voluminous documents, provides upon request summaries in English of the documents concerned.

Operation of Enquiry Points

16. The representative of Japan noted that some SPS enquiries had been directed to one of the TBT Enquiry Points (Japan External Trade Organization), causing confusion and delays. Members were urged to submit SPS enquiries only to the SPS Enquiry Point as listed in G/SPS/ENQ/3/Rev.1.

Derestriction of notifications

17. The representative of Canada informed the SPS Committee that on 1 March 1996 the TBT Committee had agreed to de-restrict TBT notifications and the list of Enquiry Points. It was proposed that the SPS Committee do likewise. The Japanese representative objected to this proposal on the grounds that general guidelines had not yet been adopted by the General Council. It was observed, however, that in the absence of such guidelines the GATT practice applied and individual committees could thus decide whether their documents be restricted or not. The representative of Canada indicated that his government would make a formal proposal in this regard for consideration at the next meeting of the SPS Committee.

Monitoring the Use of International Standards

18. The Chairman recalled that Article 12:4 of the SPS Agreement tasked the Committee with the development of a procedure to monitor the use of relevant international standards by Members. In this regard, the European Community had prepared a paper entitled "Monitoring the Process of

International Harmonization" (G/SPS/W/51). In introducing the paper, the representative of the European Community stressed that the objective was to facilitate the development of ideas and concepts in respect of this provision of the SPS Agreement.

19. In the discussion of the EC proposal, it was suggested that an introduction be added to clarify the link between the proposed monitoring exercise and the impact on trade liberalization which might be expected, to help define what information the SPS Committee was gathering and what would be done with this information. Some representatives noted the crucial importance of ensuring consistency in the information provided by Members regarding their application or non-application of international standards, stressing the difficulty in clearly ascertaining whether or not a particular international standard was being applied. This depended to a large degree on the nature of the standard itself, as in many cases, such as with the Codex Code on General Principles of Food Hygiene or the OIE Foot and Mouth Disease Standard, even apparently small departures from the recommendations could have significant effects in terms of impeding trade. It was suggested that the experiences gained in harmonization among smaller groups of countries could be valuable for the work of the SPS Committee. One representative questioned the extent to which the monitoring exercise as proposed might divert attention and resources away from the other transparency obligations under the SPS Agreement.

20. Many participants welcomed the idea of a pilot project to establish the feasibility, practicality and cost-effectiveness of the proposed monitoring exercise. However it was also noted that it could be worthwhile for the SPS Committee to consider other options which might be even more cost-effective and yet meet the obligations under Article 12:4. Concern was expressed that substantive work might be delayed by disagreement on what products would be covered by the pilot project. Other delegates questioned the EC's suggestions for the pilot project, noting that standards in respect of which use or non-use might be difficult to judge, such as the OIE's standard on Foot and Mouth Disease, were better avoided.

21. The representative of the European Community noted that the standards they had proposed for a pilot project reflected an attempt to balance the areas of human health, animal health and a concrete product category. A broader selection of products would probably satisfy more delegations and could cover a number of areas within each of the above mentioned categories.

22. Some delegations questioned the need to establish a list of all relevant international sanitary and phytosanitary standards in order to identify those which had a major trade impact. They suggested that there might be other ways of identifying the measures of interest without having to establish a comprehensive list at the outset. It was observed that the *volume* of trade involved should be considered in assessing whether a standard, guideline or recommendation had a major trade impact, although the representative of the European Community noted that establishing criteria to define the volume of trade posed difficulties. It was suggested that the relative importance and inter-relation of SPS and TBT measures at the border also needed to be considered. Otherwise it could occur that progress made on a specific SPS issue would not lead to further trade liberalization because the real constraint was a TBT measure.

23. The SPS Committee agreed to hold a more substantive discussion on the matter at its next meeting. The Chairman noted that while Article 12:4 would be the basis for the SPS Committee's work, it would be useful for the SPS Committee to also take into account paragraphs 5 and 6 of Article 12.

Risk Assessment

24. The representative of Australia drew the SPS Committee's attention to the considerable progress in the work of Codex, particularly regarding the specialized scientific consultations in the areas of Maximum Residue Limits (MRLs) and the safety of food additives. The *complex nature* of the work itself made it difficult, however, to communicate its importance and relevance, through the SPS Committee, to the people involved in the political decision making, and there was a danger that full appreciation would not be attributed to it. He also noted the need to resolve differences in *terminology* used in the context of the Codex, the OIE and the IPPC with regard to risk assessment and the whole risk analysis system.

Consistency

25. The Chairman expressed his appreciation for the responses he had received with regard to the questions on consistency circulated subsequent to the last meeting of the SPS Committee (G/SPS/W/45). Consultations had been held with almost all delegations that had so requested and during these initial exchanges of views several delegations had indicated the need for more time to consider how the provision of consistency (Article 5:5) could best be implemented. The Chairman indicated that he would continue his consultations with all those who expressed the wish to be consulted, and would report on the progress made at the next meeting of the SPS Committee.

26. One representative stressed that it was necessary to engage in this discussion the national experts in capitals who worked with - and decided upon - SPS issues in a practical setting.

27. Another representative, while agreeing that the practical implementation of risk assessment was very important, noted that the lack of guidelines on consistency should not be allowed to limit the effectiveness of the SPS Agreement in other areas. His main concern was thus one of *approach* as he considered that the apparent deadlock in work on this area was hampering progress by the SPS Committee on other issues. This maintained the *status quo* that existed before the Uruguay Round of a lack of rules, to the benefit of some countries and to the detriment of others. He noted that among those negatively affected was his country. He expressed his apprehension that further discussions on this matter might not lead to any progress, and suggested that one option would be to base the guidelines on jurisprudence.

28. The delegate from another country noted that many governments were in the process of dividing up work between the areas of plant, animal and human health. This made it difficult to achieve consistency in the application of SPS measures among the different sectors and services even within a country. Noting that these services based their work on that of the relevant international standard setting organizations, greater consistency was needed in the guidelines from these organizations themselves, notably with regard to terminology. Lastly, he observed that the SPS Committee had made considerable progress and that its work with regard to an issue as complex as consistency would require patience and time.

Identification of Practices for the Exchange of Information

29. The representative of New Zealand introduced a paper tabled at the last meeting of the SPS Committee: "Protocol for the Exchange of Information: Procedures Established by New Zealand for the Development and Implementation of a Plant Import Health Standard" (G/SPS/W/36). The paper describes how New Zealand develops plant import health standards while meeting the objective of facilitating trade. He stressed that the fundamental principle was the need for both the importing and

the exporting country to exchange and clearly identify information requirements and their mutual obligations.

Development and Application of Residue Limits

30. The representative of Australia introduced a paper on the "Development and Application of Residue Limits to Foods in Trade under WTO SPS Principles", which had been submitted to the previous meeting of the SPS Committee (G/SPS/W/34). The paper describes the conventional way in which Maximum Residue Limits (MRLs) are developed, interpreted and applied in many, if not most, countries.

31. Many participants endorsed the main principles of the Australian paper, namely the harmonization of national approaches for setting MRLs, and the benefit of using Codex standards to this end. However, one representative expressed concern with regard to how up to date certain Codex MRLs (in relation to pesticides) were with current Good Agricultural Practices. Another delegate noted the importance of also taking into account changing dietary patterns, to the extent these affected exposure to pesticides through foods, when establishing MRLs. A suggestion was made that when governments required more stringent tolerances for residue limits, it might be useful if the justification for those be demonstrated in the Codex itself. On the importance of the integrity of national decision making processes in the establishment of "the appropriate level of protection", it was stressed that the objective was to protect human health first and foremost, but to do so in a way that was least likely to impede trade unnecessarily.

32. Several participants noted the vast number of applied food standards for which there was no international standard and the need to consider the implications of this. One delegation underlined that the setting of MRLs was based on large quantities of scientifically established data and that the gathering of such data was a costly burden if required of the importing country. Another representative accentuated the need for importing countries to take into account the Good Agricultural Practices of exporting countries and noted that his country routinely requested supporting data for the establishment of MRLs on imports. The representative of Australia responded that the existence of sufficient scientific information as a basis for the formulation of standards was an obligation under the SPS Agreement. Regarding *who* was responsible for providing that information, in practice, although not necessarily feasible under all circumstances, the country which had the information, especially the exporting party, should provide the information.

33. Cases were noted where governments set low or even zero tolerance levels for chemicals, *not* because the substance in question constituted a risk for human health, but because the domestic process of registration and establishment of appropriate tolerance levels in line with national Good Agricultural Practices had not been developed. The need for a mechanism whereby an assessment could quickly be carried out, as the use of the additive or the pesticide might be entirely legitimate and safe, merely not considered. Mercosur countries had decided that, for products which had not been banned for toxicological reasons nationally, Codex tolerances would be the reference to the extent they existed. Another representative supported the view that where there was no MRL fixed, it would be appropriate to fix a temporary tolerance level in order to avoid an unnecessary interference with trade. The SPS Committee's attention was drawn to the difficulties that certain Members encountered with regard to the actual analysis involved in determining the residues that may exist in imported foods. The high-level and costly technology involved was probably one reason why limits were set at zero or close to zero tolerance.

34. With regard to cases where a detection of a residue level in violation of a Members' standard was made, several participants questioned the appropriateness of requiring Members to review established

practices or protocols in order to ensure proportionate action. In view of the already existing notification obligations under the SPS Agreement, this could become an additional encumbrance. Australia indicated that it was not suggesting a burdensome new review system, but rather a periodic reconsideration of Members' established practices or protocols in relation to what was done where violated residue levels were detected.

35. The full statements made under this item by Canada and the United States are contained in documents G/SPS/W/54 and G/SPS/W/55, respectively.

Other SPS Issues

36. The representative of Chile introduced a paper about the declaration of Chile as a country free of fruit fly in December 1995 (G/SPS/W/52). The SPS Committee was informed that support was being given to action undertaken by Peru against fruit-fly in the Tacna region of the country (southern province bordering on Chile).

37. The representative of Uruguay expressed concern with regard to the scope of the International Plant Protection Convention (IPPC) in relation to that of the SPS Agreement. It was noted that whereas the SPS Agreement covered quarantine type pests and other pests which affected plant life and health, the latter were in a certain manner excluded from the IPPC, or at least not dealt with explicitly. Yet non-quarantine type pests could also have a significant impact on international trade. Uruguay informed the SPS Committee that Mercosur had developed definitions for these harmful pests not covered by international standards and was attempting to develop specific standards. Contrary to quarantine pests, a certain level of tolerance for harmful pests could be accepted. Uruguay indicated that it would submit a paper on this subject for consideration at the next meeting of the SPS Committee.

38. Several delegations stressed the importance of the matter raised by Uruguay. The observer from the IPPC informed the SPS Committee that this was one of the major points to be discussed at an expert consultation of the IPPC the following week. He indicated that he would endeavour to provide a written report of the IPPC expert meeting prior to the next meeting of the SPS Committee.

Technical Assistance

39. The Secretariat reported on its technical assistance activities, including:

- (i) *Regional seminars organized in cooperation with the Codex, OIE and the IPPC.* Two additional seminars were planned: one in Prague (Central and Eastern European countries) and the second in Moscow. The Secretariat expressed its gratitude to the Government of the United States for making the organization and participation of government officials possible for these two seminars. The SPS Committee's attention was drawn to the fact that there were regions in the world requesting such seminars but that there was a lack of funding for governments - as well as Secretariat - participation.
- (ii) *Seminars organized by other organizations.* The Secretariat continued to participate actively and to the extent possible in seminars organized by other organizations, some on an international, others on a regional scale. The APEC was currently organizing such a seminar in Manila.
- (iii) *National seminars and workshops.* The Secretariat's ability to respond positively to requests for national seminars is constrained by limited resources. If Members and organizations would provide the SPS Committee regularly with information about workshops and seminars of which

they were aware, the Secretariat, when unable to directly provide assistance at a national level, could advise governments on possible alternatives in their proximity.

- (iv) *Meetings with delegations.* The Secretariat had held several briefings on the SPS Agreement with interested delegations in Geneva. These had focused mainly on the obligations and transparency provisions of the Agreement. Additional information sessions, intended to focus on the basic obligations of the Agreement and some of its specific terms and provisions, would soon be organized.

40. The representative of India suggested that a regional seminar be organized in New Delhi for the benefit of the Asian developing countries in the region. Likewise, the Cuban delegation requested technical assistance in the area of the SPS Agreement.

41. The representative of the United States informed the SPS Committee about the APEC SPS Seminar to be held in Manila (Philippines) on 15-16 May 1996. Eighteen countries had been invited to discuss issues associated with the implementation of the Agreement and the participation of the WTO Secretariat had been requested. It was also noted that the APEC group had been running a series of programmes in the Asian region coordinated by Japan. One of these activities, assisted by Australia, had been to conduct a survey of APEC Member countries' conformity with Codex standards. A further project was about to begin on the development of a consistent food-recall system with Codex standards as a basis.

42. Chile informed the SPS Committee that it had participated in several meetings, including the American Summit meeting, with the purpose of studying the practical implementation and technical assistance requirements of the SPS Agreement.

43. New Zealand drew the SPS Committee's attention to its bilateral assistance programme with the People's Republic of China. A seminar would be held in Beijing in early April for Chinese officials aimed at providing them with an understanding of the WTO SPS Agreement.

44. The representative of the Codex informed the SPS Committee on the considerable number of technical assistance programmes provided by the FAO focusing on trade aspects and compliance with the SPS and TBT Agreements in developing countries. The programmes were aimed at assessing existing food-control systems and recommending ways in which these could be improved for the purpose of meeting multilateral trade requirements. It was noted that the Codex, in the context of the SPS Agreement, participated in WTO regional seminars, seminars organized by other organizations (such as the World Bank), and workshops sponsored by the FAO centred on the SPS Agreement.

45. The representative of the IPPC noted that there was a need for follow up of the WTO seminars in terms of establishing appropriate infra-structure in the countries in question such as, for example, adequate plant quarantine services. He noted that assistance in the area of plant quarantine was currently very limited and that the attention of major donor agencies needed to be drawn to the matter.

Report to the Ministerial Conference

46. The Chairman noted that each WTO Committee would be requested to submit a report for consideration by the Ministerial Conference meeting in Singapore in December 1996. It was agreed that the Chairman would begin informal consultations with respect to the nature of this report and any other preparatory work which might be appropriate.

Other Business

47. Brazil drew the SPS Committee's attention to a matter regarding the non-issuance of import licences for exports of Brazilian gelatine to Norway. Brazil had traditionally exported gelatine to Norway exclusively from the southern states of Paraná, Rio Grande do Sul and São Paulo. However, in 1991, Norway had halted the issuance of import licences for Brazilian gelatine on the grounds of the existence of Foot and Mouth Disease (FMD) in Brazil. Consultations with Norwegian authorities had been initiated in the second quarter of 1995. Although Norwegian authorities had reportedly declared that the problem was resolved, import licences continued to be denied. The representative of Norway stated that, in the context of recent changes to import regulations, the ban on imports of gelatine from Brazil would be lifted. The two Members agreed to continue their consultations on this matter.

48. On a different matter, the representative of Brazil informed the SPS Committee that Brazil would be hosting the first international conference on FMD.

49. The representative of Argentina indicated that Argentina had considered the manner by which the work of the SPS Committee could be furthered. Six concrete suggestions were presented (contained in document G/SPS/W/53) for consideration at the next meeting of the SPS Committee.

Election of Chairperson

50. The SPS Committee was informed that the Council for Trade in Goods had appointed Ambassador Kari Bergholm (Finland) as Chairman of the SPS Committee for another year.

Date and Agenda of next Meeting

51. The following provisional agenda for the meeting of the 29-30 May 1996 (tentative date) was agreed:

- A. Adoption of the agenda
- B. Observers
- C. Rules of Procedure
- D. Implementation of the Agreement -- information from Members
- E. Transparency Provisions:
 - (i) Consideration of specific notifications received
 - (ii) Proposed modifications to the notification formats, guidelines and procedures
 - (iii) Any other matters related to the operation of transparency provisions
- F. Monitoring of use of international standards
 - [Risk assessment (general approach and description of actual cases of risk assessment)]

- G. Consistency
[Identification of practices for exchange of information]
- H. Development and application of residue limits
[Other SPS issues]
- I. Work programme of the SPS Committee
- J. Technical assistance
- K. Preparatory work for Singapore
- L. Matters of interest arising from the work of observer organizations
 - (i) Revision of IPPC (injurious pests)
- M. Other business
- N. Agenda of next meeting