
Committee on Sanitary and Phytosanitary Measures

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**DRAFT DECISION ON THE IMPLEMENTATION OF ARTICLE 6 OF THE AGREEMENT
ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES**

Comments by the European Communities on the proposal of Chile
(G/SPS/W/140/Rev.1)

The following communication, dated 8 March 2004, is being circulated at the request of the Delegation of the European Communities.

The Committee on Sanitary and Phytosanitary Measures,

Having regard to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement);

Reaffirming the right of Members to establish sanitary and phytosanitary measures necessary to ensure the protection of human, animal and plant life or health and the protection of their territory from other damage caused by the entry, establishment or spread of pests, in accordance with the SPS Agreement;

Desiring to make operational the provisions of Article 6 of the SPS Agreement;

Noting that the sanitary or phytosanitary status of countries is an important factor in permitting, preventing, or improving the conditions for the entry of any potential pest- or disease-carrying products;

Recognizing that regionalization can be applied between all Members, irrespective of their level of development;

Considering that Members are facing difficulties in applying the provisions of Article 6 of the SPS Agreement;

Taking into account the specific concerns raised by exporting Members regarding the difficulties involved in obtaining recognition by importing Members of their sanitary and phytosanitary status;

Recognizing that the application of the "principle of regionalization" set forth in Article 6 makes it possible to limit the possible negative effects involved in applying sanitary or phytosanitary measures in trade and to improve market access opportunities, particularly for products of interest to developing country Members;

Recognizing that transparency, exchange of information and the promotion of confidence and credibility among importing and exporting Members are essential to the recognition of sanitary and phytosanitary status between Member countries;

Recognizing that the application of the "principle of regionalization" provides an effective technical and administrative way to ensure that trade opportunities are not wasted because of the presence in, or entry into a country of a disease or pest;

Decides as follows:

1. Regionalization shall be acceptable for smaller isolated ecosystems able to provide with enough guaranties of protection from the entry, establishment and spread of pests (e.g. farms, greenhouses, fisheries, or one or more enterprises of similar epidemiological status), a part of a country, all of a country, or several countries, in respect of sanitary or phytosanitary status relating to a given animal disease or plant pest. Members shall, when so requested in view of the pest or disease involved, consider the technical feasibility of applying on a scientific basis the concept of regionalization. An evaluation by the importing Member of the organizational structure of the regulatory bodies of the exporting Member and the implementation of prevention, control or eradication programmes may be required in particular in the case of a first decision on regionalization. A recognition of the Sanitary or phytosanitary situation shall not require the drafting of a formal agreement.
2. In order to initiate the process of recognition of regionalization, the importing Member shall take account of the exporting Member's pest- or disease-free areas and areas of low pest or disease prevalence as established by a national official organism in accordance with the regulations of the competent international organizations, in particular the International Office of Epizootics (OIE) and the International Plant Protection Convention (IPPC).
3. To facilitate the implementation of Article 6 of the SPS Agreement on regionalization, at the request of the exporting Member the importing Member shall explain the requirements and stages involved in obtaining recognition of sanitary or phytosanitary status with respect to a given pest or disease. The exporting Member shall send the technical file establishing compliance with the requirements laid down by the importing Member, accompanied by an official declaration from the national regulatory body attesting that the ecosystem is a pest- or disease-free area or an area of low pest or disease prevalence, or shall provide supporting information showing that the procedures used to obtain recognition are based on an international standard, guideline or recommendation established by competent bodies under the SPS Agreement. The exporting Member shall also supply any further information that could help the importing Member to reach its decision on recognition.
4. Importing Members shall respond as quickly as possible to the request of an exporting Member for recognition of regionalization, and shall normally begin the examination of an application for recognition, for a given pest or disease, of the status of pest- or disease-free area or area of low pest or disease prevalence within a period not exceeding two months. That period may be longer depending on the time of marketing of the goods concerned, in accordance with the corresponding seasonal trade flows.
5. The exporting Member shall provide science-based and technical information to support its objective demonstration of its sanitary or phytosanitary status. This information may include, *inter alia*, reference to relevant international standards, or to the relevant risk assessment guaranteeing or largely supporting the sanitary or phytosanitary status of the zone in question. In addition, the exporting Member shall provide reasonable access, upon request, to the importing Member for inspecting, testing and other relevant procedures for recognition of regionalization. Without prejudice

to the provisions laid down in paragraph 9, the expenses related to these inspections and tests should not be borne by the exporting Member.

6. The consideration by an importing Member of a request submitted by an exporting Member for the recognition of the status of pest- or disease-free area or area of low pest or disease prevalence with respect to a given pest or disease in its territory shall not in itself be a sufficient reason to change the existing import conditions with respect to related products from that Member.

7. The importing Member, when considering a request for sanitary or phytosanitary recognition, shall not impose demands in excess of those relating to the pest or disease in question, and shall analyse the science-based and technical information provided by the exporting Member on its sanitary and phytosanitary measures with a view to determining whether those measures achieve the adequate level of protection against the risk under consideration.

8. Should its final analysis and possible on-the-spot verification lead to a satisfactory outcome for the exporting Member concerned, the importing Member shall launch its internal administrative and/or legal procedures with a view to ensuring that its decision to recognize the regionalization can be put into effect as rapidly as possible and no later than a deadline to be established, taking account of the complexity of particular cases, with the agreement of both the importing and exporting Member. If it rejects the request for sanitary or phytosanitary recognition, the importing Member shall provide technical grounds for its decision so that the exporting Member can modify and adapt its system with a view to seeking recognition once again.

9. In accordance with Article 9 of the Agreement (Technical Assistance), a Member shall give full consideration to requests by another Member, especially a developing country Member, for appropriate technical assistance to facilitate the implementation of Article 6 (Adaptation to Regional Conditions).

10. The Committee on Sanitary and Phytosanitary Measures recognizes the need to continue developing guidelines for the determination of pest or disease-free areas and areas of low pest or disease prevalence, and shall urge the OIE and the Interim Commission on Phytosanitary Measures to continue, as appropriate, to draw up guidelines on animal and plant health respectively. These organizations, together with the Codex Alimentarius Commission, shall be invited to keep the Committee on Sanitary and Phytosanitary Measures regularly informed regarding their activities relating to the concept of adaptation to regional conditions or zoning.

11. Members shall periodically provide the Committee on Sanitary and Phytosanitary Measures with information on their experience regarding the implementation of Article 6 of the SPS Agreement. In particular, Members are urged to notify the Committee on Sanitary and Phytosanitary Measures of ongoing negotiations for the recognition of regionalization and of any agreement concerning pest or disease free areas and areas of low pest or disease prevalence.
