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**Committee on Sanitary and  
Phytosanitary Measures**

Original: French

**IMPLEMENTATION OF THE AGREEMENT ON THE APPLICATION OF  
SANITARY AND PHYTOSANITARY MEASURES**

Information for the Workshop of 31 March 2006

*Communication from Congo*

The following communication, received on 23 March 2006, is being circulated at the request of the delegation of Congo.

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1. At Marrakesh (Morocco) on 5 April 1994, Congo signed the Agreement Establishing the World Trade Organization (WTO), which completes the General Agreement on Tariffs and Trade (GATT) of 1947.
  2. On 27 February 1997, the National Assembly ratified that Agreement and Congo became a Member with the rights and obligations that membership confers.
  3. Congo thus acceded to all WTO Agreements, including the SPS Agreement, under which Members are entitled to protect human, animal or plant life or health.
  4. Domestic measures taken in the course of implementing the WTO SPS Agreement must be based on scientific principles and may not be maintained without adequate scientific evidence.
  5. The provisions of the Agreement should further the use of harmonized sanitary and phytosanitary measures between Members on the basis of international standards, guidelines and recommendations.
  6. At the same time, the SPS Agreement allows that developing country Members may encounter specific difficulties in complying with SPS measures and hence in gaining market access. It likewise acknowledges that developing Members may face certain problems in devising and applying SPS measures in their own countries.
  7. This workshop on implementation of the SPS Agreement therefore affords a good opportunity for Congo to acquire further knowledge that may facilitate the task of harmonising its national policy on SPS measures with multilateral regulatory provisions.
  8. The information I have the privilege and responsibility of sharing with you will highlight the problems Congo has met in giving effect to the SPS Agreement.

9. I shall address them under six main headings:

- (a) The object of the SPS Agreement;
- (b) the objectives of the SPS Agreement;
- (c) the importance of sanitary and phytosanitary measures in trade;
- (d) domestic regulation pertaining to sanitary and phytosanitary measures in the Republic of the Congo;
- (e) specific problems in implementing the SPS Agreement in Congo;
- (f) proposals for effective implementation of the SPS Agreement in Congo.

## **I. OBJECT OF THE SPS AGREEMENT**

10. The WTO SPS Agreement ordinarily applies to all sanitary and phytosanitary measures that may affect international trade directly or indirectly. The primary object of the Agreement is the protection of human, animal or plant life or health.

## **II. OBJECTIVES OF THE SPS AGREEMENT**

11. The objectives of the SPS Agreement include:

- Improving human and animal health and the phytosanitary situation;
- establishing a multilateral framework of rules and disciplines to guide the development, adoption and application of SPS measures in order to reduce their adverse effects on trade.

## **III. IMPORTANCE OF SANITARY AND PHYTOSANITARY MEASURES IN TRADE**

12. Sanitary and phytosanitary measures that are taken in accordance with the provisions of the SPS Agreement further trade among Members and so contribute to boosting international trade.

13. The SPS Agreement recommends that Members devise their trade policies on the basis of international standards, guidelines and recommendations developed by the competent international organizations. These include the Codex Alimentarius Commission, the World Organization for Animal Health and relevant international and regional organizations operating within the framework of the International Plant Protection Convention.

14. Thus, any Member failing to meet the requirements arising from the international standards, guidelines and recommendations developed by these organizations may have great difficulty in placing its products on the world market. Like Congo, most developing country Members find themselves in this category, however unwillingly.

15. For their part, the countries of the North have mastered technology, manufacture goods and products on the basis of international standards, and have highly efficient means of quality control. They are thus able to place their goods and products on the world market with ease.

#### IV. DOMESTIC REGULATION PERTAINING TO SPS MEASURES: THE CASE OF THE REPUBLIC OF THE CONGO

16. Regulation of the protection of human, animal or plant life or health in Congo is covered by the following legislation:

- Law No. 7/94 due 1 June 1994 regulating the import, export and re-export regime. Article 22 (6) of the Law prohibits the importation of polluting or radioactive toxic wastes and any like products.
- Decree No. 99-168 of 23 August 1999 accrediting BIVAC International and the Bureau Veritas Group as authorized agents for inspection of goods shipped to and exported from Congo.

This decree includes a list of goods and products that are exempt from inspection. These are products that may enter the national territory freely and are destined for consumption.

- Law No. 52/1256 of 26 November 1952 on the protection of plants.

This text dates back to 1952 and has become obsolete, being irrelevant to the current international regulatory environment. The Republic of the Congo is nevertheless a signatory to the International Plant Protection Conventions, which it joined in 2004, and a member of the international phytosanitary council.

17. In addition, with a view to compliance with international provisions, particularly the WTO SPS Agreement, an updated Bill on plant protection and phytosanitary control is currently before the Congolese Parliament for adoption.

- Decree No. 2003-159 of 4 August 2003 defining the organization and functions of the "Centre for Standardization and Quality Management" project.

According to Articles 3 and 17 of this Decree, the main functions of the project are:

- Developing and adopting standards;
- certifying the conformity of standards;
- quality control;
- approval of the national mark.

The Centre is still at the project phase because the national standardization system is not as yet in operation.

- Order No. 4646/BE. 47-14 of 16 December 1968 regulating the importation of live animals to Congo.

The Order focuses on banning the importation of animals suffering from rinderpest and pleuropneumonia, in the interests of consumer protection. Sanitary measures at the time provided for vaccination sessions to inoculate animals against these diseases. All the provisions of the Order were valid in their time but have ceased to be effective with the emergence of diseases such as BSE, Dioxin and Avian Influenza.

18. In order to protect consumers against these diseases, the Government of the Republic of the Congo has taken specific measures:

- An interministerial committee was set up to monitor the effects of dioxin on poultry products imported in 1999;
- Regulations have been issued to ban the importation of the offending products and their transit in the national territory (cf. official documents).

19. As regards the provisions of the SPS Agreement, it should be noted that Congo has recently started to update its national policy on sanitary and phytosanitary measures with a view to alignment with other Members.

20. Furthermore, Congo has developed a draft public hygiene code that reflects international sanitary regulations. The draft, which fills a void, is currently before Parliament for enactment.

## **V. SPECIFIC PROBLEMS IN IMPLEMENTING THE SPS AGREEMENT IN CONGO**

21. The following paragraphs explain why Congo has difficulties in implementing some provisions of the WTO SPS Agreement.

22. Article 2.2 of the SPS Agreement requires Members to ensure before applying any sanitary or phytosanitary measure that it is based on scientific principles.

23. Because it lacks efficient and suitable structures for the verification of standards and quality, Congo is unable to take any domestic measure, based on scientific evidence, to prohibit the entry of goods or products declared unfit for consumption. Consequently, any sanitary or phytosanitary measures taken by Congo runs a considerable risk of being arbitrary.

24. As for Article 3.4, which deals with harmonization of sanitary and phytosanitary measures between Members, since most developing countries lack structures for the verification of standards and quality, it would appear difficult if not impossible for them to take part in the work of the international organizations responsible for defining standards and taking decisions on a scientific basis.

25. The lack of efficient structures for standard and quality control in developing countries, including Congo, explains why these countries are unable to challenge the conformity with international standards of products declared to be of sound quality by countries of the North, which are better equipped in this area. This demonstrates clearly enough that the question of harmonizing sanitary and phytosanitary measures between Members is likely to put a brake on the development of the external trade of developing countries, which have hitherto had serious problems in placing their products on the international market.

26. Since most Congolese resources destined for export do not fulfil the standardization criteria demanded at international level, Congo will meet with difficulties in implementing its export diversification policy because access to markets in the countries of the North for products "made in Congo" will be virtually impossible.

27. This being so, effective participation by Congo in the multilateral trading system would appear to be complex.

## **VI. PROPOSALS FOR EFFECTIVE IMPLEMENTATION OF THE SPS AGREEMENT IN CONGO**

28. The following are proposals for securing effective implementation of the SPS Agreement in Congo:

- Reinforcement of State policy on the development of trade and the improvement of national exports (cf. revision of Law 7/94: harmonization with the WTO);
- State encouragement of private initiatives based on investment and technology transfer linked to standard and quality control. The State should promote any action by the private sector that envisages the establishment of efficient technical and scientific laboratories specializing in standard and quality control for goods and products destined for consumption;
- encouragement by the WTO and UNCTAD of the relocation of technical and scientific laboratories of developed country Members so as to prevent any hindrance to international trade caused by certain sanitary and phytosanitary measures that are adopted arbitrarily and without adequate scientific evidence, to the detriment of developing countries which have difficulty in placing their products on the international market;
- a more thorough review at WTO level of the operating mechanisms of the global market in order to facilitate technology transfer allowing developing country Members to:
  - Develop their national resources;
  - improve the level of their trade with the countries of the North;
  - carry out their own assessment of the conformity with international sanitary and phytosanitary standards of imports in general;
  - take SPS measures on a scientific basis;
  - participate in the work to harmonize standards carried out by the relevant international organizations (Codex Alimentarius, World Organization for Animal Health ... );
  - develop standardization and certification activities.

29. The Republic of Congo is now at the phase of framing its standardization policy. However, technical assistance from the WTO could be requested in order to secure better harmonization of SPS measures with other Members.

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