

# WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

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## RESPONSES TO QUESTIONS FROM THE CHAIRMAN OF THE WTO SPS COMMITTEE CONCERNING REGIONALIZATION

### Communication by Chile

The following communication, dated 25 October 2004, is being circulated at the request of the delegation of Chile.

#### **Roles and responsibilities**

##### *1. Roles and responsibilities in the implementation of Article 6*

###### *(a) The SPS Committee*

The Committee is responsible for overseeing the application of the principle in such a way as to ensure that international standards are observed or that there is just cause for any departure therefrom, while preventing delays from becoming unjustified barriers to trade.

###### *(b) The relevant international organizations*

The relevant international organizations are responsible for drawing up technical and scientific guidelines or recommendations regarding sanitary status, whether for attaining a given status with respect to a pest or a disease or for maintaining that status. They are mandated by the SPS Agreement to develop and periodically review standards, guidelines and recommendations relating to all aspects of sanitary and phytosanitary measures.

###### *(c) Members*

Pursuant to the guidelines of the relevant international scientific organizations, Members which attain a given sanitary status are required to declare that status, and Members which grant recognition of that status – also in accordance with international recommendations – may verify the situation on the basis of documentary evidence or by carrying out on-the-spot checks.

##### *2. Regarding distinctions in the roles and responsibilities of the above three groups, do Members consider that such differences exist in particular with respect to Article 6, or can such differentiations apply more broadly?*

It is our understanding that the roles and responsibilities of the Members, the Committee and the scientific reference organizations are clearly established and differentiated in the Agreement and that they apply to all the principles contained in the latter, inasmuch as the scientific organizations are those which recommend science-based international standards, the Members implement measures by

adopting the relevant international standard or justifying any departure therefrom, and the Committee supervises and facilitates implementation of the principles.

3. *Assuming that certain duplication in roles and responsibilities exists between Members and international organizations, please indicate what are these overlaps, whether they can be reduced or eliminated, and, if so, how. In particular for the application of Article 6, or more broadly?*

In our view, there should be no duplication in the roles and responsibilities of the Members and the reference organizations, although the risk analysis process may differ among some Members with regard to the same recognition of sanitary status. Moreover, several Members have requirements in excess of those recommended by the organizations, for example in dealing with a given disease; where an outbreak is eradicated by slaughter, the OIE recommendation is that the territory concerned may be declared to be disease-free six months after the most recent outbreak, if no further outbreaks have occurred. However, some countries establish a 12-month period following the elimination of the most recent focus as a basis for granting recognition. We believe that in such situations the country should provide its own technical grounds for amendment of the standard within the international organization, failing which it should abide by that international standard.

Insofar as there are international guidelines on regionalization, the international organizations could recommend that Members follow these guidelines and refrain from initiating a complex process of risk analysis, considering that they are able to take an active part in such meetings.

4. *Recognizing the OIE's official verification for four specific diseases, what significance do Members assign to this in the implementation of Article 6? What is the Members' valuation of such official verification, and to what extent does an importing Member use the OIE's verification as a basis for evaluating an exporting Member's request for regionalization?*

There are wide disparities when it comes to Members' recognition of OIE verifications. Many conduct a full risk analysis and regard such verifications merely as further confirmation, whereas others attach particular importance to them and hence simplify their recognition process. This is one of the reasons why we believe that it is necessary to generate greater commitment among Members to recognize this verification process. It has accordingly been proposed to provide, in such cases, for a fast-track or expedited process for the recognition of sanitary status by Members.

#### **Questions relating to time-limits or time frames**

5. *With respect to the guidelines of international organizations, please indicate what types of recommended time frames generally or specifically exist, if any, for exporting or importing Members' actions when establishing market access requirements. To the extent that they exist, do Members discern differences in the recommended time frames in these recommendations or guidelines, and how could some of these recommended time frames relate to the implementation of the Article?*

As regards time frames, it should be clarified from the outset that the periods established by the international reference organizations for determining when an area is free of a given pest or disease should not be subject to discussion, since this involves a scientific determination by the organizations best suited for issuing specific recommendations on the pest or disease in question; it should also be recalled that each of the members of such organizations can voice an opinion in such meetings.

What should be addressed are the administrative time frames for recognition of a given sanitary status. In this case the problem lies in their application by the Members, and with the SPS

Committee, which is required to supervise implementation of the principles covered by international guidelines. It will be for the international scientific organizations to develop the guidelines relating to pests or diseases, to be agreed by their members in the respective forums, and possibly to make further headway with verification procedures that could be implemented either directly or through expert groups or regional organizations.

6. *When applying Article 6, can Members differentiate elements or processes which are or may be more conducive to recommending time frames and, if so, which ones?*

We believe that processes can have an impact on time frames, especially in the administrative sphere. This can be achieved by clearly establishing the parties' undertakings through Committee recommendations, as was the case for the recommendations on equivalence, with the added advantage that a great deal of work has already been done on the recommendations of international organizations regarding regionalization and that they have existed for much longer, which means that there is more experience and practical know-how available in these matters.

7. *Assuming in the implementation of Article 6 that time frames were to be established, how would such time frames compare with other existing time frames for the implementation of other SPS disciplines?*

Our understanding is that the key concern regarding time frames relates to the stage in the recognition process involving verification – and mainly administrative – work, which in the case of regionalization commences once a Member has declared a given sanitary status and seeks recognition of that status. As regards the other principles, there is not always such a clear distinction between administrative and technical aspects, although administrative delays are also considerable.

The Committee could draw attention to procedures and responsibilities, leaving the work on time frames to be agreed on a bilateral basis, under the Committee's supervision if necessary. Perhaps such processes should be notified to it with a view to ascertaining the level of progress achieved and identifying any impediments.

8. *How could Members use the recommended time frames in the application of Article 6 for:*

- (a) Technical issues arising from different risk profiles

For technical aspects, it is necessary to follow the guidelines issued by the scientific reference organizations.

- (b) Different regulatory and control structures

Each country is required to adapt to international standards and to that end is at liberty to participate, with voting rights, in the scientific organizations in which these are developed. Moreover, in the spheres of animal and plant health under discussion here, the official authorities are duly represented in these international organizations.

- (c) Competency regarding assessments

It will be up to the Member countries to inform each other bilaterally and in a transparent manner of their capacities to that effect.

(d) Consideration of standing queues

Regarding this matter, Members can establish their time frames on a bilateral basis, but this should not be regarded as a justification for undue delays.

**Committee work**

9. *Could the discussions regarding difficulties in the implementation of Article 6 take place under the agenda item concerning the monitoring of international standards?*

This item of the agenda concerns aspects which are not covered by any international standard and for which a standard is needed, or any international standard that has become obsolete and requires updating. In the case of regionalization, however, there are international guidelines, which appear to be adequate and have been developed in agreement with the Member countries present, but they are applied diversely by the Members, some using parallel procedures with time frames that may be arbitrary.

The discussions could take place under this agenda item in specific instances, but this would not obviate the need for the Committee to work on guidelines aimed at improving the application of the principle, so as to make its implementation more effective.

10. *Members appear to agree to share information and experiences with respect to the application of Article 6. Could the Committee develop any further mechanism for such information exchange?*

It would be important to work in the Committee on the development of mechanisms for the exchange of information on regionalization, so as to improve its implementation. It would also be useful to have details regarding the initiation and conclusion of recognition processes and any obstacles that may have arisen in cases where there has been much delay, as proposed under section 7 in this document.

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