

**SECOND REVIEW OF THE OPERATION AND IMPLEMENTATION
OF THE AGREEMENT ON THE APPLICATION OF
SANITARY AND PHYTOSANITARY MEASURES**

Discussion Proposal for the More Effective Implementation of the *Ad Hoc* Consultations
Mechanism within the Framework of Article 12.2 of the SPS Agreement

Communication from Costa Rica

The following communication, received on 30 January 2006, is being circulated at the request of the delegation of Costa Rica.

1. Article 12.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) provides that it is the duty of the Committee on Sanitary and Phytosanitary Measures to encourage and facilitate discussion among Members on trade concerns regarding specific sanitary or phytosanitary issues and to request the good offices of the Committee Chairperson. Mechanisms of this type provide the opportunity to facilitate the resolution of trade concerns in an expeditious manner, at a low cost and with implications different from those of the procedures provided for in the WTO Dispute Settlement Understanding (DSU). Consequently, Costa Rica thinks that this Committee should explore options which would facilitate the wider and more effective implementation of these mechanisms.

2. The use of these mechanisms is limited owing to the lack of procedures and time-frames that would ensure the expeditious resolution of such concerns. The Committee should discuss whether it would be appropriate or feasible to establish more detailed procedures for using the good offices of the Chairperson, as well as for the discussion of specific trade concerns.

3. The issues to be addressed should include:

- (a) The usefulness of establishing time-frames for responding to the trade concerns submitted by Members to the Committee, and mechanisms to inform other Members of the results of the steps taken. Members could thus be more certain that their concerns will be addressed within a determined period of time, and this would act as an incentive for using the mechanism.
- (b) The possibility of establishing guidelines with definite time-frames and more detailed procedures for resorting to the good offices of the Committee Chairperson. To date, the good offices of the Chairperson have been requested on only three occasions.¹

¹ G/SPS/36.

Costa Rica believes that the establishment of more detailed procedures could possibly encourage the greater use of this mechanism.

- (c) Mechanisms which facilitate the more active participation in the Committee of developing and least developed Member countries, so as to increase their capacity to identify and resolve their trade concerns through Article 12.2 of the SPS Agreement.

4. The use of these mechanisms does not imply that the mechanisms established in the DSU should be abandoned. The consultations and good offices provided for in Article 12.2 of the SPS Agreement must continue to be additional remedies that are available to Members to help them find solutions that enable their rights and obligations to be preserved and respected.
