

**Committee on Sanitary and  
Phytosanitary Measures**

Original: Spanish

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

Proposed Differences or Clarifications Procedure

*Communication from Chile*

The following communication, received on 13 June 2006, is being circulated at the request of the delegation of Chile.

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1. At some of the Committee's meetings, particularly when discussing issues raised in connection with the review of the Agreement's operation, some delegations, for example, the United States, Costa Rica, Brazil, Colombia and Uruguay, supported by other Members, proposed the structuring of procedures to clarify differences or to make better use of the existing bodies under the Agreement with a view to resolving trade disagreements caused by different interpretations, failure to apply or inappropriate application of the principles of the SPS Agreement. In the first instance, the series of bodies that could be used for this purpose are identified, the objective being to clarify differences and avoid any move towards a formal dispute settlement process.

2. Article 5.8<sup>1</sup> of the SPS Agreement provides that when a Member has doubts regarding the scientific nature or justification for a specific measure, it may request the other Member to explain the reasons for the measure and the latter must do so. The Member maintaining the measure shall provide the information requested in a timely manner and avoid any unnecessary delay. Following this step, if the doubts persist, there may be an exchange of documents, possibly with questionnaires and replies.

3. If there is no agreement, a bilateral technical meeting may be held either within the SPS Agreement framework or in any other body provided in a bilateral agreement between the parties concerned. The meeting's venue in one of the two countries may be agreed by the parties. If the issue is not resolved, it may continue to be addressed when the SPS Committee meets in Geneva, informally in the intervals between meetings of the Committee.

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<sup>1</sup> "When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure."

4. If no agreement is reached, the complainant may bring the matter up before the Committee under the agenda item on specific trade concerns, sending a communication to this effect sufficiently in advance (11 days) both to the Committee's Secretariat and to the other Member. It is suggested, although it is not mandatory, that the explanation should not only be given orally but also in writing and circulated in languages so as to give a proper understanding.

5. If the problem persists, the country concerned may seek the good offices of the Chairman or the Secretariat so that they can act as mediator or facilitator at a joint meeting with the parties. The issue will be followed up in the Committee itself under the agenda item "follow up" to specific trade issues previously raised. Nothing prevents the issue being addressed bilaterally between meetings of the Committee. If a solution is reached, this must be communicated to the Committee, in agreement with the other party.

6. It would also be appropriate to examine and obtain further details on the dispute settlement procedures in the OIE and the IPPC, bearing in mind that these are technical processes. It would also be interesting to know the cost and any implications of these procedures if the matter is subsequently brought before a WTO Panel. The intention of the foregoing is to consider whether this is another avenue to complement the procedures indicated and thus avoid the convening of a formal panel.

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