

Committee on Sanitary and Phytosanitary Measures

**PROCEDURE TO MONITOR THE PROCESS
OF INTERNATIONAL HARMONIZATION**

Draft Eleventh Annual Report¹

A. INTRODUCTION

1. At its meeting of 15-16 October 1997, the SPS Committee adopted a provisional procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations, as provided for in Articles 3.5 and 12.4 of the SPS Agreement. The Committee extended the provisional monitoring procedure in 1999, 2001, and 2003, and adopted a revision of the procedure in October 2004.² On 28 June 2006, the Committee agreed to extend the provisional procedure indefinitely, and to review its operation as an integral part of the periodic review of the operation and implementation of the Agreement under Article 12.7.³ The next such review is to be completed in 2009, and every four years subsequently.

2. The Committee has previously adopted tenth annual reports on the monitoring procedure.⁴ These reports summarize several standards-related issues that the Committee has considered and the responses received from the relevant standard-setting organizations.

B. NEW ISSUES

3. Since the adoption of the Tenth Annual Report in June 2008, two new issues have been raised under this procedure. One issue is with regard to concerns raised relating to a draft regional standard of the North American Plant Protection Organization (NAPPO) entitled "Guidelines for Regulating the Movement of Ships and Cargoes Aboard those Ships from Areas Infested with the Asian Gypsy Moth". The other issue pertains to provisions of the Constitutive Agreement of the Asia Pacific Plant Protection Commission (APPPC) regarding havea plants and South American leaf blight.

Concerns on draft regional standard of the North American Plant Protection Organization

4. At the meeting of the Committee of 15-16 October 2008, China raised the issue of a draft regional standard developed by NAPPO which would require NAPPO members (Canada, Mexico and the United States) to impose strict phytosanitary measures on ships and cargoes from China, Japan, Korea, Mongolia, and Russia.⁵ China, along with Japan, Korea and Indonesia, were concerned that the draft regional standard would have a serious impact on international trade if implemented, that it

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the position of Members or to their rights or obligations under the WTO.

² G/SPS/14, G/SPS/17, G/SPS/25 and G/SPS/11/Rev.1.

³ G/SPS/40.

⁴ These were circulated as G/SPS/13, G/SPS/16, G/SPS/18, G/SPS/21, G/SPS/28, G/SPS/31, G/SPS/37, G/SPS/42, G/SPS/45 and G/SPS/49.

⁵ G/SPS/R/53, paragraphs 112-120.

was inconsistent with Articles 2.2 and 5.6 of the SPS Agreement, and that it had ambiguities regarding the technical application of the measure in different NAPPO countries and in different climatic conditions.

5. The United States stressed that the NAPPO standard was still in a draft form, and was amenable to changes based on comments submitted by concerned Members. China had declined an invitation to attend an October 2008 meeting regarding this draft standard. This pest was not present in the NAPPO countries, but it was known to be very invasive. A harmonized standard would allow ships to enter any port in a NAPPO country, after being approved at the first port of call. Canada supported the statement of the United States, citing the damage previously caused by incursions of the Asian Gypsy Moth in Canada. These interventions were also supported by Mexico.

6. China stated that it had already sent technical comments to the NAPPO secretariat and hoped there would be further meetings between the NAPPO secretariat and the concerned Members. The representative of Norway also expressed interest regarding the possible impact on Norway's exports.

7. The European Communities reported that they had not introduced any new measures with regard to the Asian Gypsy Moth, although they remained vigilant to any potential risk. The European Communities noted the similarities between this issue and ISPM 15 on wood packing material, and hoped that a similar solution to the Asian Gypsy Moth problem could be found.

8. At the meeting of the Committee in February, 2009, China reported that it had maintained good communications with the officials of the NAPPO countries since raising its concern on this issue. The draft standard had been revised and was undergoing a second comment-soliciting process, and technical expert groups had been sent to China, Japan and Korea from NAPPO to exchange information. China welcomed the open and transparent working procedure of the NAPPO countries, and requested that they delay adoption of the standard until comments and concerns were taken into account. Moreover, China reaffirmed the need for scientific evidence for every SPS measure, as provided for in Article 2.2 of the SPS Agreement. China also reported that the occurrence of the Asian Gypsy Moth had decreased sufficiently within its territory that this pest was not detected during joint surveillance with the United States in some Chinese ports. China also recalled the SPS Agreement provision for the least trade-restrictive measure to be applied.

9. Indonesia, Japan and Korea shared similar concerns in regard to the draft standard. Japan requested that the adoption of the standard be deferred until all comments were duly considered. Indonesia noted the need for further studies on the possibility of the survival of the insects on long distance journeys to North America via cargoes. Korea argued that the draft standard might pose an excessive restriction on trade, and expressed regret that the low prevalence of the pest in Korea had not been considered by the United States.

10. The United States reaffirmed that the Asian Gypsy Moth was a highly invasive pest, and had been found in port areas in North America on a number of occasions although it was not present in North America. The United States stated that the need for specific phytosanitary measures had been stressed by the NAPPO pest risk assessment panel, subsequent to a risk assessment. This assessment was available on request and was the basis of the present draft standard. The United States assured trading partners that the applied phytosanitary measures would be consistent with its WTO rights and obligations. The statements of the United States were corroborated by Mexico and Canada.

11. [Update on the basis of the June 2009 meeting]

Concerns on restrictions on imports of Havea Plants

12. At the meeting of the Committee of 25-26 February 2009, Brazil raised concerns regarding some provisions of the Constitutive Agreement of the Asia Pacific Plant Protection Commission (APPPC), which includes a clause in its Article 4 and Appendix B on South American leaf blight.⁶ By virtue of this clause, the APPPC contracting parties are requested to prohibit by law the importation of havea plants from countries outside the region. Brazil considered that this requirement lacked scientific justification, was not based on risk analysis, and had already affected many countries in South and Central America. Moreover, in 1999 the 117th Council of the FAO had recommended the revision of the APPPC Constitutive Agreement, to bring it in line with the IPPC and SPS Agreement principles and provisions. Brazil urged a timely revision of the APPPC Constitutive Agreement.

13. Brazil's concerns were supported by Japan. Japan was not a member of the APPPC even though it was located in the region covered by it, due to this provision against South American leaf blight. A risk assessment for a regional standard had been conducted by the APPPC, and Japan hoped that the APPPC would adopt a regional standard on this basis at its September 2009 meeting.

14. The IPPC representative clarified the relationship between the IPPC and the regional plant protection organizations. The cooperation of the regional plant protection organizations with the IPPC secretariat to achieve the objectives of the International Plant Protection Convention, and to develop relevant standards, is prescribed in Article 4 of the Convention. Article 10 of the Convention provides that regional standards shall be consistent with the principles of the Convention. The IPPC had also sought the revision of the APPPC Constitutive Agreement, to make it consistent with IPPC principles.

15. [Update on the basis of the June 2009 meeting]

C. PREVIOUS ISSUES

16. Since the adoption of the Twelfth Annual report, there has been [no] further discussion on any issue previously raised under this procedure. [Update on the basis of the June 2009 meeting.]

D. RESPONSES RECEIVED FROM THE RELEVANT STANDARD-SETTING ORGANIZATIONS

17. No further information has been provided by the relevant standard-setting organizations regarding issues previously raised. [Update on the basis of the June 2009 meeting]

⁶ G/SPS/R/54, paragraphs 125-127.