

WORLD TRADE ORGANIZATION

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REPORT OF THE COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

This report was adopted by the Committee on Sanitary and Phytosanitary Measures on 8 October 1996, for consideration by the Singapore Ministerial Conference.

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1. The Agreement on the Application of Sanitary and Phytosanitary Measures sets out the rights and obligations of Members with regard to measures not previously addressed in detail under the GATT.

2. The Committee on Sanitary and Phytosanitary Measures (hereinafter the "Committee") was established to provide a regular forum for consultations and to carry out the functions necessary for the implementation of the Agreement and the furtherance of its objectives, in particular with respect to the process of international harmonization of sanitary and phytosanitary measures. The Committee is to encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues, to review notifications and to encourage the use of international standards, guidelines and recommendations. The Committee held three regular meetings in 1995 and again in 1996 (see SPS/R/1-5). In addition, informal meetings and consultations were held on several matters. A special joint meeting with the Committee on Technical Barriers to Trade was held on transparency provisions, in particular notification procedures and the operation of Enquiry Points.

3. At its first meeting in 1995, the Committee adopted working procedures (G/SPS/1) and recommended procedures and a format for the implementation of the notification provisions under the Agreement (G/SPS/2). Modifications to these recommended procedures and format, as well as procedures for the notification of urgent actions, were subsequently agreed by the Committee (G/SPS/7). In addition, the Committee established lists (which are regularly updated) of National Enquiry Points (G/SPS/ENQ/series) and of National Notification Authorities (G/SPS/6). At this and later meetings, the Committee also agreed to invite, on an ad hoc basis, the following international intergovernmental organizations as observers to its meetings: Office international des épizooties (OIE), Codex Alimentarius Commission (Codex), International Plant Protection Convention (IPPC), Food and Agriculture Organization (FAO), World Health Organization (WHO), UNCTAD, International Trade Centre (ITC), as well as the International Organization for Standardization (ISO).

4. Under the provisions of the Agreement, all Members (except the least-developed ones which may delay until 2000 the implementation of the Agreement) are required to notify new, or modifications to existing, sanitary or phytosanitary regulations which are not substantially the same as the content of an international standard and may have a significant effect on international trade. Each Member is required to designate a single central government authority as responsible for these notifications. They are also required to establish and identify one National Enquiry Point to respond to requests for information regarding sanitary and phytosanitary measures. As of 8 October 1996, 396 notifications have been received from 31 different Members. 82 Members have identified their National Enquiry Points and 63 have identified their national authority responsible for notifications.

5. The Agreement sets two explicit tasks which the Committee has initiated but not yet concluded. Article 5:5 of the Agreement requires the Committee to develop guidelines to further the practical implementation of this provision¹. In formal and informal consultations, draft guidelines are being developed for future consideration by the Committee.

6. The Agreement requires that the Committee develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines and recommendations. A proposal for such a procedure is under consideration by the Committee. At the same time, the Committee is also examining to what extent, as provided for by the Agreement, information gathered by the relevant international standard-setting bodies may be used. An alternative approach considered by the Committee is the extent to which these bodies might themselves be involved in the monitoring.

7. The Committee has provided a regular forum for the discussion of specific notifications submitted by Members and of concerns regarding notifications, including insufficient time provided for comment. Other issues regarding the implementation of the Agreement have also been considered by the Committee. Some of these relate to specific measures proposed or taken by certain Members which other Members allege violate the provisions of the Agreement, whereas others concern measures which individual Members have taken to further their implementation of the Agreement, such as, for example, with regard to their use of risk assessment. Trade concerns of a more generic nature, relating to sanitary and phytosanitary measures, have also been discussed, including with regard to the establishment of pesticide residue requirements, procedures for the exchange of scientific and technical information between importing and exporting Members, and sub-national measures.

8. Article 14 provides that the least-developed country Members may delay the application of the Agreement until 2000. Other developing country Members may delay the application of provisions not related to transparency until 1 January 1997, if necessary because of a lack of technical expertise or infrastructure, or of resources. Also, according to the Agreement, the Committee may, under certain circumstances, grant specific, time-limited exceptions to obligations. Although concerns have been expressed by certain Members that some developing country and least developed country Members could experience difficulties in implementing the notification and other provisions of the Agreement, no specific problems in this regard have been brought before the Committee.

9. The Committee has kept the need for technical assistance under regular consideration. The WTO Secretariat has initiated a series of regional seminars in Africa, Asia, Central and Eastern Europe and Latin America, including a number in cooperation with other relevant international organizations, to assist Members' implementation of the Agreement. Other technical assistance has been provided by the Secretariat, directly by Members and by regional or international organizations. Members with specific technical assistance needs within the scope of Article 9 of the Agreement have been encouraged to make these known to the Committee, as have been Members in a position to offer technical assistance.

¹Article 5:5 states "With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves."

10. The effective implementation of the Agreement requires coordination and cooperation with relevant international intergovernmental organizations which develop standards, guidelines and recommendations with respect to sanitary and phytosanitary measures, and in particular the Office international des épizooties (OIE), the Codex Alimentarius Commission (Codex) and the International Plant Protection Convention (IPPC). Close working relationships have been established with these bodies who contribute regularly to the work of the Committee. Much progress has been made in the work undertaken by these bodies which could facilitate the implementation of the Agreement by WTO Members. Progress in the development of relevant international standards and methodologies for risk assessment, in particular, is of fundamental importance in this regard, as is the revision of the IPPC (now under consideration).

11. The Committee has discussed elements of a practical and effective on-going and future work program. This program includes: reviewing the efficacy of the Agreement's notification process; improving transparency in other areas, including through the exchange of information on Members' administrative structures and procedures related to the establishment of SPS measures; facilitating consultations leading to the resolution of current trade problems; coordinating and improving the quality and efficiency of international technical assistance; and promoting the recognition of equivalent SPS measures consistent with the provisions of the Agreement.

12. Article 12:7 of the Agreement provides that the Committee shall review the operation and implementation of the Agreement three years after its entry into force, and, where appropriate, may submit to the Council for Trade in Goods proposals to amend the text of the Agreement having regard, *inter alia*, to the experience gained in its implementation. The Committee will undertake appropriate work for such a review of the Agreement.

13. The Committee recommends that Ministers endorse the approach set out in paragraphs 5, 6, 11 and 12, above. Furthermore, the Committee recommends that Ministers reiterate the strong commitment of all Members to the full implementation of the Agreement, including its notification and other transparency provisions.