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para la
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y la
Alimentación

COMMISSION ON PHYTOSANITARY MEASURES

First Session

Rome, 3 – 7 April 2006

Report on the Activities of the Sanitary and Phytosanitary Committee and Other Relevant WTO Activities in 2005

Agenda Item 10.1 of the Provisional Agenda

1. A report on relevant activities of the Sanitary and Phytosanitary (SPS) Committee and the World Trade Organization (WTO) prepared by the WTO Secretariat is provided at Annex 1.

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Annex 1

Activities of the SPS Committee and other relevant**WTO activities in 2005****3-7 April 2006**Report by the WTO Secretariat¹

1. The present report provides a summary of the activities and decisions of the WTO Committee on Sanitary and Phytosanitary Measures (the "SPS Committee") during 2005 to the First Commission on Phytosanitary Measures (CPM). It identifies the work of relevance to the CPM and the International Plant Protection Convention (IPPC), including: specific trade concerns; equivalence; regionalization; monitoring the use of international standards; and technical assistance. The report also includes relevant information on dispute settlement in the WTO which occurred outside the context of the SPS Committee.
2. The SPS Committee held three regular meetings in 2005: on 9-10 March, 29-30 June and 24 October, continuing on 1-2 February.²
3. The Committee agreed to the following tentative calendar of regular meetings for 2006: 29-31 March, 28-30 June, and 11-13 October.
4. Mr. Gregg Young (United States) acted as Chairperson for the period 2004/2006 and will be replaced by the new chairperson Juan Antonio Dorantes (Mexico) as of the meeting in June 2006.

Specific Trade Concerns

5. A large part of each SPS Committee meeting is devoted to the consideration of specific trade concerns. Any WTO Member can raise particular problems with the food safety, plant or animal health requirements imposed by another WTO Member. Problems raised in this context are usually in relation to the notification of a new or changed measure, or based on the experience of exporters. Often other countries will share the same concerns. At the SPS Committee meetings, Members usually commit themselves to exchange information and hold bilateral consultations to resolve the identified concern.
6. A summary of the specific trade concerns raised in meetings of the SPS Committee is compiled on an annual basis by the Secretariat of the WTO.³ In the ten years of implementation of the SPS Agreement, from 1995 to the end of 2004, 29 per cent of specific trade concerns raised were related to plant health.
7. In 2005, 12 phytosanitary issues were raised for the first time in the SPS Committee:
 - Mexico's concerns regarding Guatemala's restrictions on the transit of avocados;
 - Canada's concerns regarding Greece's inspection and testing procedures for imported wheat;
 - Chile's concerns regarding Australia's restrictions on imports of fresh grapes;
 - China's concerns regarding United States restrictions on Ya pears imports;
 - United States' concerns regarding EC plant health directive;

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

² The report of the March meeting is contained in G/SPS/R/36, that of the June meeting in G/SPS/R37/Rev.1 and Corr.1, and that of the October meeting, with the continuation in February, will be circulated as G/SPS/R/39.

³ The latest version of this summary can be found in document G/SPS/GEN/204/Rev.6 and addenda. This document is a public document available from <http://docsonline.wto.org>. The document was updated prior to the March 2006 SPS Committee meeting, and an excerpt of the phytosanitary concerns will be distributed to the CPM meeting.

- St. Vincent and the Grenadines' concerns regarding EC's Eurep/Gap requirements for bananas;
- European Communities' concerns regarding US import procedures for fruits and vegetables;
- European Communities' concerns regarding Japan's import restrictions on EC exports of plant and animal products;
- India's concerns regarding Japan's import requirements for Indian mangoes;
- Chinese Taipei's concerns regarding Canada's import restrictions on Enoki mushrooms from Chinese Taipei;
- European Communities' concerns regarding Israel's absence of phytosanitary import legislation.

Six issues relating to plant health that had been previously raised were discussed again, including:

- Canada's concerns regarding Venezuela's restrictions on imports of potatoes, onions, fertilised eggs, day-old chicks and meat products (two times);
- The European Communities' concerns regarding US import restrictions on potted plants from the European Communities;
- New Zealand's concerns regarding Japan's official control restrictions on citrus and other fresh fruits and vegetables;
- United States' comments regarding the European Communities deviation from the international standard for wood packing material;
- Chile's concerns regarding Australia's restrictions on imports of fresh table grape;
- New Zealand's concerns regarding Australia's import restrictions on New Zealand apples.

One phytosanitary issue brought to the attention of the SPS Committee related to notifications made by Members, namely:

- Nicaragua's concerns regarding Costa Rica's phytosanitary requirements on fresh oranges from Nicaragua.

ISPM 15

8. In 2004, concerns regarding the implementation and application of ISPM 15 were discussed by the SPS Committee at all of its meetings. In 2005, concerns related to ISPM 15 again were raised in the context of specific trade concerns as well as in discussions on monitoring the use of international standards. Some Members stressed the need to allow sufficient time for developing countries to put into place the necessary controls to ensure that their exports could circulate freely. Others noted with appreciation the suspension of the requirements by some countries that wood packing materials be de-barked, but expressed continuing concerns about the pending implementation of these types of requirements. Other Members expressed hope that these types of suspensions would continue until the IPPC International Forestry Quarantine Research Group had reviewed and assessed the technical justification for this requirement. Since 2003, 67 notifications relating to wood packaging material have been submitted by WTO Members. Most of these relate to the intended implementation of the standard (see Attachment 1). The issue of ISPM was also raised under the procedure for monitoring the use of international standards (see discussion below).

Equivalence

9. In October 2001 the SPS Committee developed guidelines on the implementation of Article 4 of the SPS Agreement on equivalence in response to concerns raised by developing

countries.⁴ In 2004, the SPS Committee completed its work programme related to clarifications of the Decision.⁵ These clarifications note the work on recognition of equivalence undertaken in the Codex and the OIE, and request the ICPM to take into consideration the Decision on Equivalence and the subsequent clarifications in its work on the judgement of equivalence with regard to measures to address plant pests and diseases. The IPPC reported to the SPS Committee its adoption of ISPM-24: Guidelines for the determination and recognition of equivalence of phytosanitary measures. Equivalence remains a standing agenda item of the Committee.

Regionalization

10. In 2003, the SPS Committee began to consider the implementation of Article 6 of the SPS Agreement, which requires consideration of the pest or disease status of exporting and importing areas. Discussions on regionalization continued in the Committee meetings in 2004 and 2005, with the Committee receiving regular updates on the work on regionalization undertaken by the IPPC and the OIE. The SPS Committee held regular informal meetings in March and June 2005, as well as an "enhanced" informal meeting on regionalization on 30-31 January 2006.⁶ The WTO Secretariat prepared a set of documents for the March 2006 meeting, including a summary of the extended informal held in January⁷, a compendium of all the papers submitted to date by Members and observer organizations⁸ and a background document including a compilation of all the ideas and proposals received from the Members and the ISSBs⁹.

11. Discussions on this topic in the SPS Committee have focused on several themes. Many Members had noted the difficulty in committing to the long-term and sustained investments need to obtain and maintain recognition of pest or disease free status when recognition by their trading partners is unpredictable. Members highlighted the need for further clarification of the ways in which recognition by the OIE or IPPC affects bilateral recognition of pest- or disease-free status. Some Members recognized that harmonization of procedures in the area of regionalization could improve the recognition process, enhance predictability and thus facilitate the implementation of Article 6, but the Committee had yet to develop a common understanding of what the typical administrative procedures for the recognition of pest or disease free areas would include. During these discussions, the IPPC and OIE regularly described work within their organizations which was in direct response to requests from the SPS Committee for guidance in this area.

Monitoring the Use of International Standards

12. The procedure adopted by the SPS Committee in 1997 to monitor the use of international standards invites countries to identify specific trade problems they have experienced due to the use or non-use of relevant international standards, guidelines or recommendations.¹⁰ These problems, once considered by the SPS Committee, are drawn to the attention of the relevant standard-setting body. In 2005, two issues relating to ISPM 15 were raised under this procedure. As noted above, small developing countries noted difficulties in achieving the timely full implementation of ISPM 15, particularly the heat treatment requirements for wood packing material for export. Other countries questioned the effectiveness of measures recommended in ISPM 15 for controlling specific pests. The issue was again considered at the March 2006 meeting.

13. In June 2005 the Committee adopted the Seventh Annual Report on the procedure to monitor the use of international standards as modified.¹¹

⁴ G/SPS/19.

⁵ The agreed clarifications are in G/SPS/19/Rev.2.

⁶ Copies of these presentation can be downloaded from the WTO website:
http://www.wto.org/english/tratop_e/sps_e/meet_jan06_e/meet_jan06_e.htm.

⁷ G/SPS/R/38.

⁸ G/SPS/GEN/636 and Corr.1.

⁹ G/SPS/GEN/640.

¹⁰ G/SPS/11.

¹¹ G/SPS/37.

Technical Assistance

14. At each of its meetings, the SPS Committee has solicited information from countries regarding their technical assistance needs and activities. The SPS Committee has been kept informed of the collaborative efforts of the IPPC and FAO secretariats to strengthen the capacity of developing countries and of the importance of the participation of the IPPC in the regional SPS workshops organized by the WTO. The IPPC secretariat and the FAO have also provided information regarding their technical assistance activities at each regular meeting of the SPS Committee in 2005.¹²

Review of the Operation and Implementation of the SPS Agreement

15. Article 12.4 of the SPS Agreement indicates that the Committee should review the operation and implementation of the Agreement three years after its entry into force, and thereafter as appropriate. In 2004 the SPS Committee began its second review of the Agreement. The Committee adopted the Report on the Review of the Operation of the SPS Agreement in June 2005.¹³ This report recommends that the relevant international organizations keep the Committee informed of any work they undertake with regard to the recognition of equivalence, as well as their activities relevant to the recognition of pest- or disease-free areas or areas of low pest or disease prevalence. In addition the report recommends that the Committee continue to monitor the use of international standards at each of its regular meetings. Submissions and proposals by Members on specific issues will determine the Committee's approach to addressing issues raised in the Review.

Other Relevant WTO Activities

Dispute Settlement

16. In 2005, a dispute settlement report was adopted in the compliance panel regarding Japan's trade restrictions on apples imported from the United States relating to fire blight (*Japan-Apples*). Panel proceedings continued on the cases regarding the European Communities' measures affecting the approval and marketing of biotech products and the United States' and Canada's continued suspension of obligations in the *EC -Hormones* Dispute.

The WTO dispute settlement procedure

17. Any WTO Member may invoke the formal dispute resolution procedures of the WTO if they consider that a particular measure imposed by another WTO Member violates any of the WTO Agreements, including the SPS Agreement. If formal consultations on the problem, the first step of the WTO dispute procedure, are unsuccessful, a WTO Member may request that a panel be established to consider the complaint.¹⁴ A panel of three individuals considers written and oral arguments submitted by the parties to the dispute and issues a written report of its legal findings and recommendations. The parties to the dispute may appeal a panel's decision before the WTO's Appellate Body. The Appellate Body examines the legal findings of the panel and may uphold or reverse these. As with a panel report, the Appellate Body report is adopted automatically unless there is a consensus against adoption.

18. According to the SPS Agreement, when a dispute involves scientific or technical issues, the panel should seek advice from appropriate scientific and technical experts. Scientific experts have been consulted in all SPS-related disputes. The experts are usually selected from lists provided by the standard-setting organizations referenced in the SPS Agreement, including the IPPC for plant health. The parties to the dispute are consulted in the selection of experts and regarding the information solicited from the experts.

¹² This information is available in the reports of the SPS Committee meetings (G/SPS/R/36; G/SPS/R/37/Rev.1; and G/SPS/R/39).

¹³ G/SPS/36.

¹⁴ A flow chart of the dispute resolution process can be consulted at (http://www.wto.org/english/thewto_e/whatis_e/tif_e/disp2_e.htm).

SPS Disputes

19. As of 2006, four SPS-related issues had been considered by panels. Two SPS cases dealt with plant pests and quarantine requirements: the United States complaint about Japan's requirement for testing each variety of fruit for efficacy of treatment against codling moth (*Japan-Agricultural Products*)¹⁵; and the United States' complaint about Japan's set of requirements on apples imported from the United States relating to fire blight (*Japan-Apples*).¹⁶ The United States subsequently challenged the revised measures applied by Japan, and in accordance with WTO procedures, these were examined by the original panel.

20. The panel considering Japan's compliance issued its report in April 2005.¹⁷ The panel examined the revised requirements imposed by Japan, and its new risk assessment. The panel provided a ruling with respect to each of Japan's phytosanitary requirements on US apples. Japan was found to have breached Article 2.2 of the *SPS Agreement* by maintaining the compliance measure at issue without sufficient scientific evidence. Furthermore the panel found that Japan's measures were not "based on an assessment, as appropriate to the circumstances, of the risk to [...] plant life or health" in Japan, because Japan relied on uncorroborated new studies that did not support the conclusion that imported apples could spread fire blight. The parties notified a mutually agreed solution in September 2005.

21. Two dispute cases have concerned food safety regulations – the European Communities (EC) ban on imports of meat treated with growth-promoting hormones, challenged by both the United States and by Canada (*EC-Hormones*).¹⁸ One complaint dealt with diseases of fish, brought by Canada against Australia's import restriction on fresh, chilled or frozen salmon (*Australia-Salmon*).¹⁹ A US complaint on this same issue was resolved before the panel completed its examination.

22. The panel to examine the complaints by the United States, Canada and Argentina regarding the European Communities' measures affecting the approval and marketing of biotech products was established in 2003.²⁰ The panel received first submissions from the parties and held its first hearing in June 2004, followed by rebuttal submissions from the parties in July 2004. Proceedings were delayed when the panel, at the EC's request, sought advice from scientific experts on technical issues arising in the dispute. The volume of submissions from parties also led to further delays in the completion of the panel report. The panel report is expected to be circulated in the second half of 2006.

Disputes brought back to the WTO dispute settlement procedure

23. On 13 February 1998, the WTO Dispute Settlement Body adopted the panel and Appellate Body reports in the *EC – Hormones* case which recommended that the European Communities bring the measures at issue into conformity with WTO obligations. When the European Communities was unable to implement by the 13 May 1999 deadline, the US and Canada obtained authorisation from the DSB on 26 July 1999 to suspend obligations up to the level of US\$116.8 million and CDN\$11.3 million per year, respectively. On 28 October 2003, the European Communities announced that its measures were now in compliance with the rulings, and on 17 February 2005 a new panel was established to consider an EC complaint against the

¹⁵ The report of the panel is contained in document WT/DS76/R. The Appellate Body report is contained in document WT/DS76/AB/R.

¹⁶ The report of the panel is contained in document WT/DS245/R. The Appellate Body report is contained in document WT/DS254/AB/R.

¹⁷ WT/DS245/RW.

¹⁸ The reports of the panels are contained in documents WT/DS26/R/USA and WT/DS48/R/CAN. The Appellate Body report is in document WT/DS/26/AB/R and WT/DS48/AB/R.

¹⁹ The report of the panels is contained in document WT/DS18/RW. The Appellate Body report is in document WT/DS18/AB/R.

²⁰ The requests for the establishment of a panel by the US, Canada and Argentina are found in the documents WT/DS291/23, WT/DS292/17, and WT/DS293/17, respectively.

continued suspension of concessions by the US and Canada.²¹ The hearings for this panel have been the first to be made public.

The Standards and Trade Development Facility

24. The aim of the Standards and Trade Development Facility (STDF) is to assist developing countries enhance their capacity to meet international sanitary and phytosanitary (SPS) standards, improving the human health, animal health and phytosanitary situation, and thus gaining and maintaining market access. The partner agencies of the STDF are: the Food and Agriculture Organization (FAO), the World Organization for Animal Health (OIE), the World Bank, the World Health Organization (WHO) and the World Trade Organization (WTO). The WTO is the administrator of the STDF and provides the secretariat.

25. The STDF is both a financing and a coordination mechanism. Grant financing is available for private and public organizations in developing countries seeking to comply with international SPS standards and hence gain or maintain market access. The STDF provides funds for two types of grants: project preparation grants and project grants. Project preparation grants up to US\$20,000 aim to act as a bridge between the identification of technical assistance needs and the development of coherent project proposals. The STDF also funds project grants. The size of grants typically ranges between US\$300,000 and US\$600,000. Applicants must assume some of the financial cost of the projects.²²

26. The STDF has approved the following projects and project preparation grants in the plant health area:

STDF 65: Support to compliance with official and commercial standards in the fruit and vegetable sector in Guinea	Project approved in September 2005. The project is focused on assisting the public and private sector in Guinea in training to meet official and commercial standards for fruit and vegetable exports. Contract and project terms of reference currently being elaborated. Implementation expected in 2006.	\$600,000
STDF 79: Quality information on SPS issues - a pre requisite for capacity building	Project approved in September 2005. The project is a one-off activity to improve the sharing of information on official standards (including the supporting scientific evaluations) developed by the three international standards-setting bodies referred to in the SPS Agreement through the medium of the International Portal on Food Safety, Animal and Plant Health. The project will be implemented by the FAO in collaboration with Codex, OIE and the IPPC. The project will improve the sustainability of core resources for the Portal. Implementation is expected to commence in the final quarter of 2005.	\$470,000
STDF 89: International Plant Health Risk Analysis Workshop	Project approved in September 2005. The aim of the project is to provide funding for 29 developing and least-developed country officials to attend a workshop on pest risk analysis to be held in Canada on 24-28 October 2005. The aim of the workshop is to strengthen expertise in and capacity to apply IPPC's standards for PRA (ISPMs No. 2, 11 and 21,	\$147,000

²¹ The requests by the European Communities for the establishment of a panel are found in documents WT/DS320/6 and WT/DS/321/6.

²² Applicants from least-developed countries must meet at least 10 per cent of the cost of the project from their own resources, while other developing countries are required to fund at least 25 per cent of the project cost. Further information on eligibility criteria, the application process and governance arrangements for the STDF can be found in document G/SPS/GEN/523.

	in particular) with a view to harmonizing methods for their implementation internationally. Project will be completed by the end first quarter of 2006.	
STDF 37: Assistance to Developing Countries in the Implementation of ISPM 15 (Guidelines for regulating wood packaging material in international trade)	Project approved in September 2004. Project centrepiece, a workshop on implementation of ISPM 15, was held in Vancouver, Canada on 28 February – 4 March 2005. Project nearing completion. Training materials related to the workshop can be found on the IPPC website at www.ippc.int	\$332,000

Table 2: Status of implementation of STDF project preparation grants

Project title	Implementation status	Project budget
STDF 102: Project preparation grant for Mali	Approved in September 2005. Consultant to be contracted. Preparation activities should be focused on project design in the fruit and vegetable sector which will support current initiatives.	\$20,000
STDF 103: Project preparation grant for Rwanda	Approved in September 2005. Consultant to be contracted. Preparation activities should be focused on project design in the fruit and vegetable sector which will support current initiatives.	\$20,000

27. Applications for STDF funding may be made at any moment in the year. The STDF Working Group meets three times per year to consider funding requests. **The deadline for funding submissions to be considered at the next STDF Working Group meeting is 25 April 2006.**

28. Applications received after that date will be considered at the next STDF Working Group meeting after 8-9 June. Further information on the STDF, including the Business Plan, application forms and information on projects approved can be found at the STDF website www.standardsfacility.org. The website also contains training materials collected from partner agencies and a link to the database on SPS technical activities.

ATTACHMENT 1
CHRONOLOGICAL LIST OF
NOTIFICATIONS ISSUED ON WOOD PACKAGING (ISPM 15)

Country	Symbol	Date of distribution
New Zealand	G/SPS/N/NZL/344	24 /02/2006
Bulgaria	G/SPS/N/BGR/24	22/02/2006
China	G/SPS/N/CHN/42/Add.3	17/02/2006
European Communities	G/SPS/N/EEC/221/Add.4	13/02/2006
Honduras	G/SPS/N/HND/11	03/02/2006
Jordan	G/SPS/N/JOR/14	12/01/2006
Ecuador	G/SPS/N/ECU/2/Corr.1	20/12/2005
Ecuador	G/SPS/N/ECU/1/Corr.1	20/12/2005
Brazil	G/SPS/N/BRA/124/Corr.1	24/11/2005
Paraguay	G/SPS/N/PRY/4	16/11/2005
Paraguay	G/SPS/N/PRY/3	16/11/2005
Paraguay	G/SPS/N/PRY/2	16/11/2005
Argentina	G/SPS/N/ARG/73/Add.1	16/11/2005
Costa Rica	G/SPS/N/CRI/35/Add.2	31/10/2005
Brazil	G/SPS/N/BRA/124	21/10/2005
Mexico	G/SPS/N/MEX/207/Add.2	24/10/2005
Mexico	G/SPS/N/MEX/207/Add.1	23/09/2005
Trinidad and Tobago	G/SPS/N/TTO/5 – EMRG	21/09/2005
Australia	G/SPS/N/AUS/187	05/09/2005
Egypt	G/SPS/N/EGY/2	06/09/2005
Philippines	G/SPS/N/PHL/71/Add.2/Corr.1	29/07/2005
Ecuador	G/SPS/N/ECU/5	21/07/2005
Philippines	G/SPS/N/PHL/71/Add.2	20/07/2005
Bolivia	G/SPS/N/BOL/9	04/07/2005
Brazil	G/SPS/N/BRA/101	06/06/2005
China	G/SPS/N/CHN/42/Add.2	02/06/2005
Guatemala	G/SPS/N/GTM/34	26/05/2005
Argentina	G/SPS/N/ARG/73	27/04/2005
Korea	G/SPS/N/KOR/138/Add.1	28/04/2005
Panama	G/SPS/N/PAN/44	15/04/2005

Ecuador	G/SPS/N/ECU/1	15/04/2005
Peru	G/SPS/N/PER/91	23/03/2005
European Communities	G/SPS/N/EEC/221/Add.3	02/03/2005
China	G/SPS/N/CHN/42/Add.1	28/02/2005
Peru	G/SPS/N/PER/87/Corr.1	23/02/2005
Peru	G/SPS/N/PER/87	11/02/2005
Colombia	G/SPS/N/COL/85/Add.1	07/01/2005
South Africa	G/SPS/N/ZAF/18/Add.1	15/12/2004
Costa Rica	G/SPS/N/CRI/35/Add.1	03/11/2004
European Communities	G/SPS/N/EEC/221/Add.2	14/10/2004
Turkey	G/SPS/N/TUR/4	05/10/2004
Mexico	G/SPS/N/MEX/207	04/10/2004
Brazil	G/SPS/N/BRA/96	01/10/2004
United States	G/SPS/N/USA/705/Add.1	24/09/2004
Australia	G/SPS/N/AUS/164/Add.1	03/09/2004
Chile	G/SPS/N/CHL/170	26/08/2004
Costa Rica	G/SPS/N/CRI/35	20/08/2004
Philippines	G/SPS/N/PHL/71/Add.1	20/07/2004
Colombia	G/SPS/N/COL/85	09/07/2004
India	G/SPS/N/IND/12/Add.2	28/06/2004
Australia	G/SPS/N/AUS/164	21/06/2004
Canada	G/SPS/N/CAN/163/Rev.1	21/06/2004
Mexico	G/SPS/N/MEX/204/Add.1	10/06/2004
Philippines	G/SPS/N/PHL/71	03/06/2004
European Communities	G/SPS/N/EEC/221/Add.1	13/05/2004
South Africa	G/SPS/N/ZAF/18	27/04/2004
Switzerland	G/SPS/N/CHE/35	05/02/2004
Mexico	G/SPS/N/MEX/204	10/12/2003
China	G/SPS/N/CHN/42	08/12/2003
European Communities	G/SPS/N/EEC/221	10/11/2003
Korea	G/SPS/N/KOR/138	11/07/2003
United States	G/SPS/N/USA/705	06/06/2003
Canada	G/SPS/N/CAN/163/Add.1	20/05/2003
New Zealand	G/SPS/N/NZL/210	29/04/2003
Canada	G/SPS/N/CAN/163	18/03/2003
Australia	G/SPS/N/AUS/123	13/11/2000