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### **FOOD SAFETY AND TRADE: REGULATIONS AND TRANSPARENCY IN A GLOBAL MARKET ECONOMY**

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<sup>1</sup> The views expressed in this paper are those of the author and do not necessarily represent the views of the WTO or its members.

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## **Summary**

1. Food safety, plant and animal health requirements have become increasingly important for agricultural products moving in international trade. The WTO Agreements explicitly address the right of governments to give priority to health protection, while ensuring that unjustified barriers to trade are not imposed. The various government authorities responsible for trade, health and agricultural issues must all be knowledgeable of the rights and obligations they have accepted under the WTO, in order to make the most effective use of these agreements to facilitate their imports and exports.

## **Introduction**

2. Trade in agricultural commodities and goods has been increasing dramatically in recent years and is likely to continue growing if the current trade negotiations result in further liberalization of trade in agricultural products. Non-tariff barriers have been described as the stones in a river; they pose few problems for trade as long as the level of tariffs, like the level of the water, remains high. As the level of tariffs begins to drop, non-tariff barriers become a more visible and important barrier to trade. For agricultural trade, one of the most common types of non-tariff barriers are sanitary (human and animal health protection) and phytosanitary (plant health protection) requirements.

3. It may be true that governments face increased pressure to use non-tariff barriers to protect domestic producers from foreign competition as tariffs are reduced. However, it is also apparent that consumers, particularly in developed countries, are increasingly demanding more guarantees that imported as well as domestic agricultural products are safe, and do not pose risks to human, animal and plant health. In addition, new technologies provide more precise means of measuring potential health risks, and more sophisticated methods of control.

4. The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), which entered into force with the establishment of the WTO in 1995, was developed to address these concerns. The SPS Agreement recognizes the right of governments to restrict trade when this is necessary to protect health, but requires that any food safety, animal or plant protection regulations which may affect international trade be scientifically justified. WTO Members are encouraged to base their SPS measures on international standards for food safety, animal and plant health. The SPS Agreement emphasizes the need for transparency not only of SPS measures but of the whole regulatory process. The importance of transparency in health and food safety regulations, including the need for greater communication and exchange of information is reflected in the specific provisions contained in the SPS Agreement itself.

5. Technical regulations and standards applied to address human health concerns not within the scope of the SPS Agreement, such as nutrition, or to establish food quality and composition requirements, are covered by the WTO's Agreement on Technical Barriers to Trade (TBT Agreement). This agreement aims to ensure that when governments or other bodies adopt technical regulations or standards for reasons of safety, health, consumer or environmental protection, or for other purposes, they do not create unnecessary obstacles to international trade. The agreement encourages countries to use international standards where these are appropriate, but not if it would change their levels of protection. But the measures taken must be proportional to the risks. Hence measures designed to protect human health could be more stringent than measures to ensure uniformity of packaging. The TBT Agreement includes provisions for notifying other countries before imposing new requirements, similar to those of the SPS Agreement.

6. The TBT Agreement sets out a code of good practice for the preparation, adoption and application of standards by central government bodies. It also includes provisions describing how local governmental and non-governmental bodies should apply their own regulations — normally they should use the same principles as apply to central governments.

### **Trade of Agricultural Commodities and Goods**

7. The value of world trade in agricultural products was estimated at US\$ 547 billion in 2001.<sup>2</sup> The share of agricultural products was estimated at 9% of the total value of world merchandise trade, and at 41% of the total value of world exports of primary products in 2001.

8. The volume of food moving across international borders was estimated at \$437 billion in 2001. Food comprises 7.3% of the total value of merchandise trade. About 500 million tons of food products are traded per year. Exports from and imports into developed countries represents approximately 75% of trade in food products, however more than 50% of fruits and vegetables, sugar, non-alcoholic beverages, fish and fishery products are exported by developing countries.

9. The greatest movement of food is within Europe. Large volumes of food are also exported from North America and from Latin America to Asian and European markets. The value of exports of food of Latin America was estimated at \$55.1 billion in 2001, representing 16% of total Latin American and 12.6% of world exports of food.

10. The world's largest exporters of agricultural products in 2001 were the European Union, the United States, Canada, Brazil, China, Australia, Argentina, Thailand, Mexico and the Russian Federation. The largest importers were the European Union, the United

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<sup>2</sup> WTO, International Trade Statistics, 2002.

States, Japan, China, Canada, Mexico, the Republic of Korea, the Russian Federation, Hong Kong China and Chinese Taipei. For most of these countries, food exports are only a small part of their total merchandise exports. However, for many developing countries, food and agricultural exports are major contributors to their economies.

### **The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement)**

11. The basic aim of the SPS Agreement is to maintain the sovereign right of any government to provide the level of health protection it deems appropriate, but to ensure that these rights are not misused and result in unnecessary barriers to international trade. The SPS Agreement reduces possible arbitrariness of decisions and encourages consistent decision-making. It requires that sanitary and phytosanitary measures be applied for no other purpose than that of ensuring food safety and animal and plant health, or protection of the territory from pests.

<b>The Definition of an SPS Measure at a Glance</b>	
<u>Measures taken to protect:</u>	<u>From:</u>
human or animal life	additives, contaminants, toxins or disease-causing organisms in their food, beverages, feedstuffs;
human life	plant- or animal-carried diseases (zoonoses);
animal or plant life	pests, diseases, or disease-causing organisms;
a country	damage caused by the entry, establishment or spread of pests (including invasive species).

#### *National Treatment and Nondiscrimination*

12. These basic principles of the WTO require that imported products not be treated any less favorably than similar domestically produced goods, nor that products imported from one WTO member be treated differently than those from another member. These basic principles are also included in the SPS Agreement. In the food safety context, if the domestic producers of a food are not required to meet certain safety requirements when selling the product in the domestic market, a government cannot justify requiring that imported foods meet those requirements. The same is true of food quality regulations and other standards. Measures cannot be imposed to keep out animal and plant diseases and pests which already exist in the importing country, unless these are subject to official control or eradication programs.

13. Differences in climate, pest or disease situations, or food safety conditions may mean that products that may be safely imported from one country may not be safe if produced in another country. Sanitary and phytosanitary measures may vary depending on the country of origin of the food, animal or plant product concerned, but only if such discrimination is justified on the basis of the scientific evidence.

#### *Harmonization*

14. The SPS Agreement encourages governments to base national SPS measures on international standards. This process is often referred to as "harmonization". The WTO itself does not develop such standards. Instead, the SPS Agreement explicitly identifies the standards developed by the FAO/WHO Joint Codex Alimentarius Commission (Codex) as relevant for food safety, those of the FAO International Plant Protection Convention (IPPC) for plant health, and those of the Office Internationale des Epizooties (OIE, also know as the World Organization for Animal Health) for animal health and for animal diseases affecting humans (zoonoses). Most of the WTO's members are also members of these international bodies.

15. National requirements which conform with the standards, guidelines and recommendations of these three standard-setting bodies benefit from a legal presumption of meeting the obligations of the SPS Agreement. Although this presumption can be challenged, it puts the burden on the challenger to show that the measures are not scientifically justified, and are not more trade restrictive than necessary to protect health. Some countries have described international standards as providing a "safe harbor" for governments. Conversely, although countries have a right to impose requirements that exceed international standards, if challenged, they have the burden to demonstrate that their measure is based on a risk assessment and otherwise fully conforms to the SPS Agreement.

#### *Risk Assessment*

16. The requirement that WTO member governments must ensure that their sanitary and phytosanitary measures are based on a risk assessment is one of the major substantive obligations of the SPS Agreement. This does not mean that every country must undertake its own risk assessment, as long as the assessment used is appropriate. The agreement clarifies the factors to be considered in the assessment of risk. In meeting this obligation, WTO members are instructed to take into account the risk assessment techniques developed by the relevant international organizations.

17. When negotiations on the SPS Agreement began, few regulatory officials were familiar with the use of risk assessment methodologies. In practice, of course, many officials were informally assessing risks on the basis of information known to them each time a decision was made whether or not to permit entry of certain agricultural or food products. However, the use of risk assessment in a systematic and structured manner was used by only a few agencies, and in a few countries.

18. There has been considerable evolution in the development and use of risk analysis procedures in the past decade. The OIE has developed a specific procedure to be used by countries in assessing animal health risks, contained in a chapter of the International Animal Health Code. The International Plant Protection Convention's operative body, the Interim Commission on Phytosanitary Measures, has adopted a standard for pest risk analysis that provides a methodology that can be used by its member countries.

19. The FAO and WHO have ensured a systematic and more harmonized approach to risk assessment by the scientific bodies assessing food safety risks<sup>3</sup>, and by the various Codex committees developing safety standards. The Codex Committee on General Principles has been charged with the development of principles for risk analysis. Progress in this area has been slow, in part because of the controversies regarding the role of precaution and the "precautionary principle", as well as the consideration of factors other than science. However, it has been agreed that two sets of principles should be developed, one for use by Codex Committees and the other for use by national governments in situations where Codex standards are not available. These latter guidelines, in particular, could be very helpful to countries in meeting their obligations under the SPS Agreement.

20. Each government has the sovereign right to determine what level of risk it will accept, based on its assessment of the scientific evidence. However, governments must ensure that differences in health protection levels are not arbitrary. The SPS Committee has developed guidelines to help governments make more consistent decisions. Often various measures can be identified which will provide this level of health protection. Among the alternatives — and on the assumption that they are technically and economically feasible — governments should select those that are not more trade restrictive than required to meet their health objective.

### *Equivalence*

21. The concept of equivalence recognizes that an acceptable level of risk can often be achieved in alternative ways. The SPS Agreement indicates that if an exporting country can demonstrate that the sanitary measures it applies provide the same level of

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<sup>3</sup> The FAO/WHO Joint Expert Committee on Food Additives (JECFA) and the FAO/WHO Joint Meeting on Pesticide Residues (JMPR).

health protection as required by the importing country, its measures should be considered to be equivalent. For this purpose, the exporting country must allow the importing country to inspect and test products and procedures.

22. The recognition of equivalence helps ensure that health protection is maintained while providing the greatest quantity and variety of safe foodstuffs for consumers, the best availability of safe inputs for producers, and healthy economic competition. Recognition of equivalence can be particularly important to developing countries, because the regulations applied by importing countries are usually based on the technologies and practices of their own industries. In the developed countries, these have become increasingly more sophisticated over time. Many developing countries do not have the infrastructure or resources to use these sophisticated production or processing techniques.

23. Many developing countries requested that clear guidance be given to facilitate implementation of this provision. The SPS Committee developed guidelines on the implementation of the equivalence provision in October 2001, and agreed on a program for further work in this area. The Committee's decision emphasizes that equivalence may be recognized for a specific treatment and/or specific product, or on a systems-wide basis. Systems-wide recognition of equivalence is uncommon, reflecting the many administrative and technical difficulties faced in this respect. The SPS committee also urged the three international standard-setting bodies to consider developing specific guidelines to assist governments with respect to the recognition of equivalence in the food safety, animal and plant health areas.

24. Considerable work on equivalence has been undertaken by Codex. In 1997, the Codex Commission adopted "Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems". These guidelines include a section regarding equivalence and the negotiating of equivalence agreements, as well as more specific "Guidelines for the Development of Equivalence Agreements regarding Food Import and Export Inspection and Certification Systems". At the next meeting of the Codex Alimentarius Commission in June-July 2003, it will consider the adoption of Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems.

25. The OIE guidelines often identify various different requirements which can alternatively be applied to protect animal health from a particular pest or disease. It has also begun work on guidelines to help governments judge the equivalence of animal health measures, and of diagnostic techniques. The IPPC has not yet begun to address equivalence of plant protection measures, but has identified this as a priority area for future work.



### *Precautionary Actions*

26. The SPS Agreement contains an exception to the requirement that a measure be based on a risk assessment. Article 5.7 of the Agreement indicates that where relevant scientific evidence is insufficient, a government may provisionally adopt a sanitary measure. This temporary measure should be based on the available pertinent information. The provision also requires that the government taking the temporary action "seek to obtain" the information necessary to allow it to undertake a more objective risk assessment, and that it reviews its temporary measure within a reasonable period of time.

27. At the time the SPS Agreement was negotiated, the current popular discussion about the precautionary principle had not begun. Article 5.7 was designed to address situations in which the discovery of a particular pest or the outbreak of a disease seems to coincide with the entry into a country of shipments of a particular product. The common practice in such cases is that the imports are immediately halted, to avoid further health risks, while the regulatory officials attempt to identify the actual cause of the problem and the most appropriate measures to impose on a regular basis. However, the outbreak of bovine spongiform encephalopathy (BSE or "mad cow disease") and various food safety scares and scandals in Europe have popularized the "precautionary principle" and led to political demands that its role in food safety regulation be explicitly recognized. The European Communities invoked the precautionary principle in its defense during the trade dispute regarding the EC prohibition of imports of beef from cattle treated with growth-promoting hormones.<sup>4</sup> The WTO's appellate body refused to rule if the precautionary principle could be considered to be a general principle of international law. But the appellate body stated that the precautionary principle "found reflection" in the SPS Agreement and in particular in Article 5.7. Because of this, the appellate body ruled that the European Communities could not invoke the precautionary principle as a justification for not complying with the provisions of the SPS Agreement.

### *Transparency*

28. The transparency provisions of the SPS Agreement requires governments to notify other countries of any new or changed sanitary requirements which might affect trade, and to set up enquiry points to respond to requests for more information on new or existing measures. The systematic communication of information and exchange of experiences among the WTO's members provides a better basis for national standards.

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<sup>4</sup> The European Communities and all 15 of its member states are members of the WTO. For matters concerning trade in goods, including implementation of the SPS and TBT agreements, the representative of the European Commission speaks on behalf of the member states. The "European Communities" as a legal entity is the member of the WTO, not the European Union.

*Specific Trade Concerns*

29. The primary focus of each SPS Committee meeting is on specific trade concerns. Any WTO country can raise particular problems with the food safety, plant or animal health requirements imposed by another WTO member. The problems may be in relation to the notification of a new or changed measure, or based on the experience of exporters. Often other WTO countries will share the same concerns. At the meeting, the countries usually commit themselves to exchange information and hold bilateral consultations.

30. A summary of the specific trade concerns is compiled on an annual basis by the Secretariat of the WTO.<sup>5</sup> Altogether, 154 specific trade concerns were raised in the eight years from 1995 to the end of 2002. Of the total specific trade concerns raised, 40 were with regard to food safety; 62 were animal health concerns; 46 were plant health concerns; and 6 were of a general nature. As Figure 1 shows, overall this represents 26 per cent of trade concerns relating to food safety concerns, 30% relating to plant health, and 4% concerning other issues such as certification requirements or translation. Concerns raised relating to animal health and zoonoses represent 40%, but this includes issues such as BSE that are also relevant for food safety.

31. As Figure 2 shows, the number of new concerns raised in recent years is much more than in 1995. Initially, specific trade concerns were raised most frequently by developed countries but as Figure 3 shows, developing countries are now participating actively in raising specific trade concerns. Latin American countries are becoming more frequent users of this mechanism to address trade problems, with Argentina being a notable example.

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<sup>5</sup> Document G/SPS/GEN/204/Rev.3, available from <http://docsonline.wto.org> as of 24 March 2003.

Figure 1.

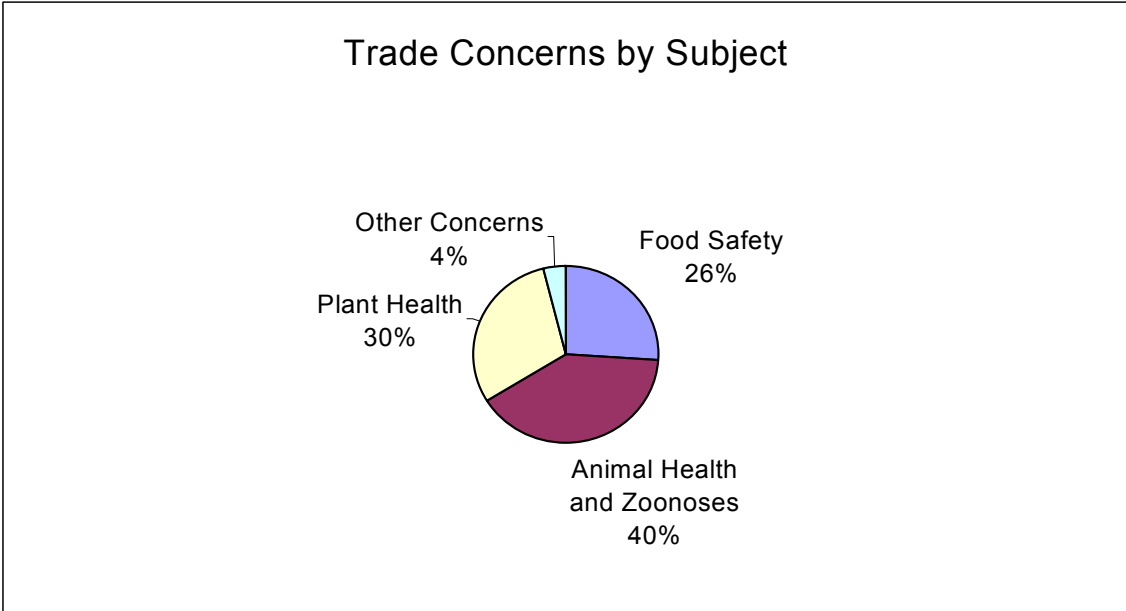
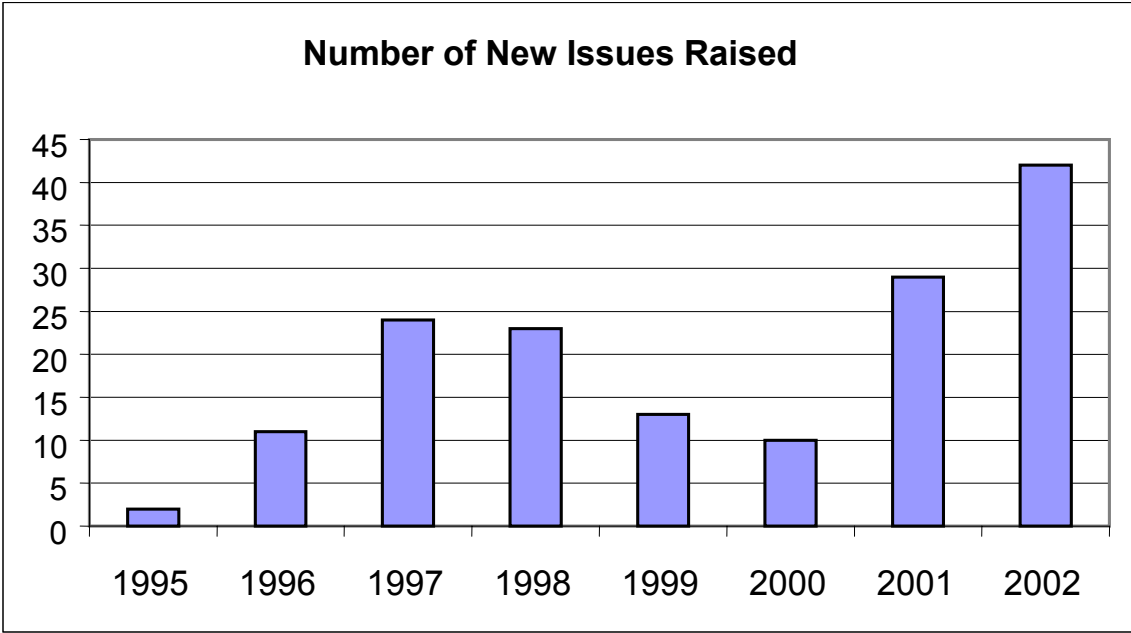
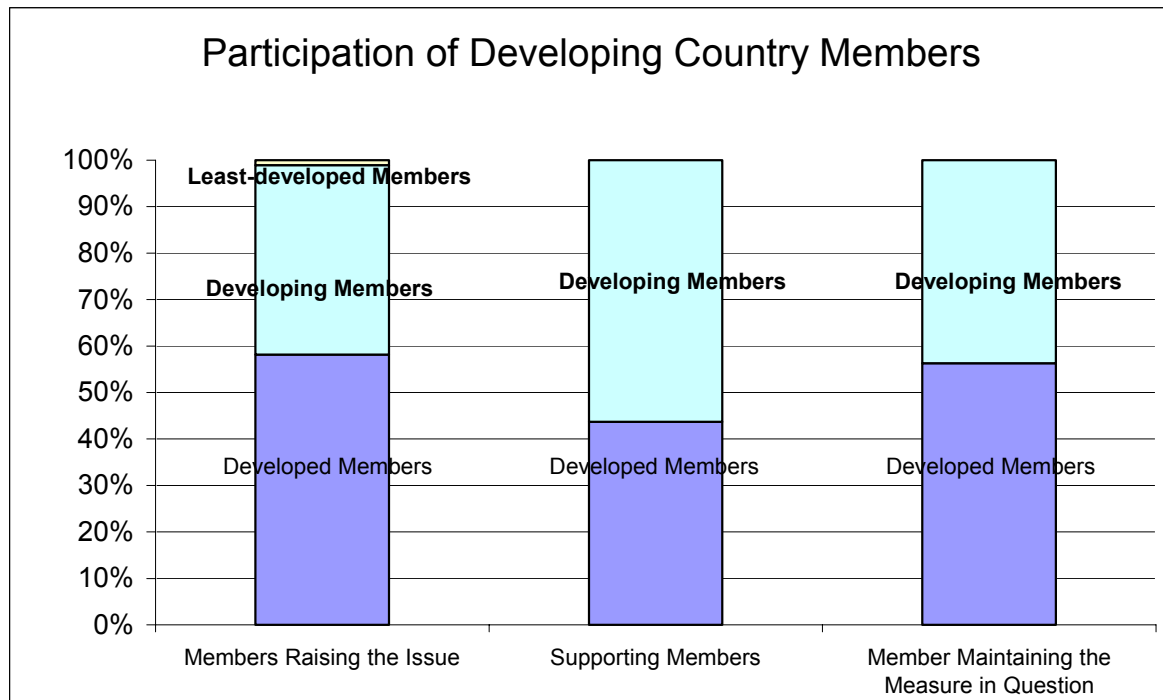


Figure 2.



Note: Both graphs include specific trade concerns raised in SPS Committee meetings from 1995 until end of 2002.

**Figure 3.**



Note: Trade concerns raised through the end of 2002 were included. The European Communities was counted as one Member. Similarly, one country speaking on behalf of ASEAN was counted as one Member.

32. Raising an issue as a specific trade concern is an important way of gathering support. In March 1998, 16 countries said that a notified change in EC maximum levels for aflatoxins in foodstuffs would cause problems for their exports. As a result, the European Communities consulted with several governments and revised its maximum levels for some foods, as well as the proposed control and inspection procedures.

33. The TBT Committee also has a specific agenda item regarding implementation of the agreement, where members raise specific trade concerns. Problems with the definition of food products, labelling requirements and GMOs are common. The issues raised in the TBT Committee meetings are detailed in the reports of the meetings.<sup>6</sup>

<sup>6</sup> Summary reports of the meetings of the SPS and TBT committees are initially restricted for 45 days for use only by WTO member governments and observers. When they have been de-restricted, they are available from <http://docsonline.wto.org>. The reports of the SPS Committee meetings are G/SPS/R/#; those of the TBT Committee are G/TBT/R/#.

*Monitoring of the Use of International Standards*

34. The SPS Agreement required the SPS Committee to develop a procedure to monitor the use of international standards by WTO governments. Countries are invited to identify specific trade problems they have experienced due to the non-use, or lack of existence, of a relevant international standard. These problems, once considered by the SPS Committee are drawn to the attention of the relevant standard-setting body.

*Participation in Standard-Setting by Developing Countries*

35. Both the SPS and TBT Agreements encourage WTO members to actively participate in the development of international standards, including in the work of the Codex, OIE and IPPC. A number of developing countries have identified their lack of effective participation in standard-setting as one of the difficulties they face with the implementation of these agreements. Effective participation extends well beyond physical presence in standard setting meetings. It requires the scientific expertise to evaluate the potential effect of proposed standards on national production and the capacity of the country to actually implement the standards. Many developing countries are concerned that the standards being developed, including by the Codex, do not adequately take into account the needs and difficulties faced by their producers.

36. The body responsible for overseeing the work of the WTO on a day-to-day basis, the General Council, requested the Director-General of the WTO to:

- (1) encourage international standard setting organizations to ensure the participation of WTO members at different levels of development and from all geographic regions, throughout all phases of standard development;
- (2) explore with the relevant international standard-setting organizations and relevant intergovernmental organizations financial and technical mechanisms to assist the participation of developing countries in standard-setting activities;
- (3) coordinate efforts with the relevant international standard-setting organizations to identify SPS- and TBT-related technical assistance needs and how best to address these, taking into consideration the importance of bilateral and regional technical assistance in this regard.

37. This request gave rise to several high level meetings between the WTO, FAO, WHO and OIE. Information was also sought from various international and regional financial organizations and technical bodies regarding their relevant activities and what they could do to further assist developing countries in standard-setting.

38. Participation of developing countries in Codex and IPPC meetings has increased significantly in recent years; developing country participation in OIE annual sessions has not been a problem. However, involvement of experts from developing countries in the meetings of the specialized bodies is more limited. The three standard-setting bodies work with regional committees to help ensure that the needs of developing countries are fully considered. There is also provision for countries to make their views known on draft standards in writing. One major problem is that developing countries often lack an effective national infrastructure to evaluate draft standards and prepare national positions in consultation with all interested parties (including industry and non-governmental organizations).

39. In 2001, FAO and WHO established a trust fund to assist developing country participants with the costs incurred in attending Codex meetings. The FAO technical cooperation program can assist countries to structure or restructure their national Codex and IPPC contact points.

### **Global Challenges to Trade**

40. Health and food safety regulations are of particular importance to Latin American agricultural exporters. These often face serious challenges to be able to comply with the requirements of importing countries, as well as with the provisions of the SPS Agreement. At the same time, since agricultural exports are of critical importance for many of these countries, the WTO Agreements can be a useful tool for challenging non tariff barriers imposed by trading partners. It is thus necessary that countries be able to implement the SPS and TBT Agreements, not only to be in compliance with their obligations, but also to take advantage of their rights.

41. In the Latin American region, exporters of food and agricultural products have identified a number of challenges to trade resulting from food standards and technical barriers, including: the lack of timely and accurate information; the simultaneous application of multiple standards and regulations; the costs and difficulties of testing and verification procedures; the perceived lack of scientific data for specific thresholds or limit values; the challenges governments face related to the risk management process; and the uncertainty arising from rapidly changing requirements in overseas markets. Phytosanitary regulations and food standards may also create market access problems on account of differing national standards, lack of transparency and inconsistent application of procedures.

### *Labelling*

42. Labelling standards and guidelines, if followed by governments, can facilitate the movement of food products in international trade. Labelling has the potential to address many consumer interests, while being less restrictive to international trade than other technical requirements. Labelling can help protect human health through information on nutrition. It can protect consumers from deceptive practices, or allow consumers to exercise particular preferences. These are all "legitimate objectives" of technical regulations or standards, in line with the TBT Agreement. On the other hand, labelling requirements may be used to restrict international trade.

43. Labelling has been a frequent topic of discussion in the TBT Committee, and particularly to what extent mandatory labelling can be justified. One issue is whether mandatory labelling is the least trade restrictive means to achieve a particular objective. And in cases where it may be the best option, the criteria proposed for the labelling must also be considered. Also of concern is whether a labelling requirement discriminates against imported products, and if it can be effectively enforced and controlled. Transparency about labelling requirements is another problem.

44. There is much disagreement among WTO countries on the labelling of processes and production methods. The TBT Agreement primarily addresses product-related requirements, such as the composition of a processed food product, the volume of containers, etc. However, many countries require labelling of processes and production methods including whether "dolphin-friendly" nets were used in the fishing for tuna, or whether animal welfare was respected. These processes and production methods do not affect the characteristics of the product being sold: the canned tuna is the same if different fishing methods were used, and the eggs may have the same characteristics regardless of the size of chicken cages. Some countries argue that labelling of production methods is necessary to allow consumers to exercise their preferences, whereas others see these requirements as limiting foreign competition. A related concern, the labelling of GMOs in food and agricultural products, is addressed below.

45. In addition to the discussions of the TBT Committee, the WTO committee on trade and environment is examining labelling for "environmental purposes". The SPS Agreement also applies to labelling which is directly related to health protection, such as particular health warnings for additives.

### *GMOs*

46. GMOs have not yet become a major issue of contention at the WTO, however pressure is mounting. There have been substantive discussions of trade restrictions relating to GMOs in both the TBT and SPS Committees. The discussions in the TBT

Committee have focused primarily on the issue of labelling requirements and whether mandatory labelling is justified for GMO products whose safety has been assessed. A growing number of countries require that foods containing or produced from GMOs must be labelled, although the specific requirements differ greatly. Over 50 GMO-related measures have been notified to the SPS Committee, and almost as many have been notified to the TBT Committee. Many relate to labelling requirements.

47. The FAO/WHO Codex Alimentarius is developing guidelines for the assessment of the safety of foods produced through modern genetic modification. Work is well underway, and once these guidelines are adopted by the Codex Commission, they may be very helpful to governments in the context of the SPS and TBT Agreements.

48. The question of whether the SPS or TBT Agreement applies to any particular GMO requirement has not been fully resolved. The objective of a measure usually determines whether the SPS Agreement applies, whereas the nature of the measure determines TBT coverage. Restrictions on the importation of living modified organisms (LMOs) due to concerns that a modified plant (or animal) may spread into other areas of the country and "crowd out" native species can probably be considered to be SPS measures. The definition of an SPS measure includes protecting the territory of a country from damage by invasive species or pests, and arguably the concern is that the GMO product would become an unwanted "pest".

49. The situation for GMO foods is less clear. Some countries cite potential health risks as the justification for restrictions. Most food-related health risks fall within the scope of the SPS Agreement. However, for food safety the definition of an SPS measure explicitly identifies only risks arising from additives, contaminants, toxins and disease-causing organisms in food and beverages. Health concerns related to GMO additives would be within the scope of the SPS Agreement, but it is still unclear whether other potential GMO health concerns fit this definition.

50. The TBT Agreement covers technical regulations and standards taken to meet legitimate objectives, which may include human health protection and protection of the environment. Most of the GMO-related restrictions that have been discussed in the TBT Committee, however, relate to providing consumer information, rather than health or environmental protection.

### **Collaboration and Institutional Capacity Building**

51. Food standards and technical barriers are at the forefront of trade and development agendas. Governments recognize that it has often been difficult to adjust to, and comply with, food standards and technical barriers necessary to achieve the



appropriate level of protection in export markets, especially for exporters in developing countries.

52. The WTO and other relevant organizations acknowledge the need to assist developing countries build their capacity to develop and comply with SPS requirements in their export markets, and to help these countries with their implementation of the SPS Agreement. The objective is to permit developing country Members to maintain and expand their market access opportunities for products of export interest to them. The SPS Agreement recognizes the difficulty that developing countries face in complying with SPS measures.

#### *Technical Assistance*

53. The WTO Secretariat has been providing technical assistance to developing countries in close collaboration with the Codex, IPPC and OIE since 1994. The objective is to train the appropriate officials in developing countries to fully understand the rights and obligations of the SPS Agreement, the work of the SPS Committee, and the dispute settlement procedures of the WTO as they apply in this area. In addition, officials from the standard-setting organisations explain the work of their respective bodies, in particular the procedure for the development of international standards, and how this can assist countries to benefit more fully from the SPS Agreement. There may also be sessions focussed on more specific issues, such as the transparency provisions or the use of risk assessment. In Latin America, the WTO Secretariat has organized or participated in technical assistance activities, including regional workshops and national seminars in Brazil, Costa Rica, Cuba, Dominican Republic, Ecuador, Jamaica, Mexico, Panama, Paraguay, Peru, and Venezuela.

54. In July 1999, the WTO Secretariat circulated a questionnaire to all WTO Members requesting information on their technical assistance needs and on the technical assistance they were providing. Most of the responses received have been from donor countries, regarding their various technical assistance projects and programs relevant to SPS implementation. The response to the questionnaire, and information given in the SPS Committee meetings, make it clear that a lot of technical assistance is being provided. What is less clear, and being examined by the SPS Committee, is whether this technical assistance is appropriately focussed and coordinated, to maximize its effectiveness.

55. Another questionnaire, circulated in October 2001, solicited information specifically from developing countries regarding their technical assistance needs. Countries were asked to identify whether they needed information, training, hard or soft infrastructure, with regard to the SPS Agreement in general, food safety, animal health or plant protection. Twenty-nine countries have responded to date, including eight countries from the Caribbean and Latin American region.

56. In November 2002, the WTO held a seminar on technical assistance and capacity-building related to the SPS Agreement. The workshop heard presentations by representatives of the FAO (including Codex and IPPC), OIE, UNCTAD, UNIDO and the World Bank, representatives of regional organizations (SADC, APEC, IICA) and the experience of a number of developing country Members. The presentations underscored the significant and varied on-going activities with respect to technical assistance and capacity building at both national and regional level.

57. Key messages emerging from the seminar included the importance of a needs-focussed approach; differences between countries and regions regarding their technical assistance needs; institutional capacity-building; the need to avoid duplication of effort and to improve coordination and collaboration among international organizations and donor agencies; and the need for a holistic approach to technical assistance and capacity-building. One conclusion emerging from the seminar was that the review and updating of the legal and institutional framework for SPS measures was an extremely important obstacle to implementing SPS measures in many developing countries.

#### *The Standards and Trade Development Facility*

58. When ministers from WTO countries met in Doha, Qatar, in November 2001 to begin a new round of trade negotiations, they agreed that the needs of developing countries would be the major focus of this round. The heads of the WTO, FAO, WHO, OIE and the World Bank issued a joint communiqué committing their institutions to further cooperate to enhance the capacity of developing countries to participate effectively in the development and application of international standards for food safety, plant and animal health, developed by the Codex, the IPPC, and the OIE, and to take full advantage of trade opportunities.<sup>7</sup>

59. Building on this commitment, work already underway in these institutions, and developing country demand for enhanced capacity building programs in the areas of food safety, plant and animal health, these five organizations established a Standards and Trade Development Facility (STDF).

60. The STDF Facility is to facilitate the collaboration between the partner organizations in enhancing the capacity of developing countries. The Facility will support information exchange, development of databases, tool kits and learning materials on trade-related SPS issues to better coordinate capacity building projects. Furthermore, the Facility will provide funding for pilot projects in capacity building in individual countries

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<sup>7</sup> See WT/MIN(01)ST/97.

or through regional initiatives in direct support of the Doha declaration, including, when appropriate, activities involving both public and private sectors. The STDF will be managed by the WTO.

*Need for Coordination*

61. The SPS Agreement is relevant to the work of several different ministries, as well as the private sector. To make the most effective use of this agreement, governments should ensure internal coordination between the ministry of agriculture (often responsible for animal and plant health matters), the ministry of health (usually responsible for food safety), the ministry of trade or foreign affairs, and often the national standards bureau as well. In addition, interested private sector associations, particularly those representing agricultural exporters, and consumer organizations should be involved. Good internal coordination also allows governments to prepare and effectively participate in meetings of the SPS Committee, as well as meetings of the international standard-setting organisations.

62. Coordination between the national enquiry point and domestic producers and exporters is critical for Latin American exporters to be able to better prepare their products to any proposed changes in the sanitary or phytosanitary regulations of their export markets. It is often the domestic producers who are in the best position to know what changes in regulations may have positive or negative effects on their exports, and to identify where they may need assistance in order to comply with these requirements.

*The Doha Development Agenda*

63. The programme for further trade negotiations agreed by Ministers in Doha in November 2001 does not explicitly identify the SPS Agreement as open for re-negotiation. However, a number of decisions were taken at that time regarding implementation of the SPS Agreement. These addressed, in particular, the need to make operative the provisions on equivalence and on special and differential treatment for developing countries, and the need to ensure better coordination among institutions providing financial and technical assistance.

64. In addition, some proposals being considered in the context of the negotiations on agriculture could have implications for the SPS Agreement, in particular the proposal of the European Union for an authoritative interpretation of the precautionary provisions of the SPS Agreement.