

Japan's Comments on

The Aquatic Commission Report of the February 2014 meeting

Japan would like to express its appreciation to the Aquatic Animal Health Standards Commission (AAHSC) for all the works they have done and thanks the AAHSC for giving us the opportunity of offering comments on proposed revisions to the Aquatic Animal Health Codes texts.

1. Guide to the Use of the Aquatic Animal Health Code

B. Aquatic Code context

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- 4) The standards in the chapter of Section 2 are designed to guide the importing country in conducting import risk analysis in the absence of OIE trade standards. The importing country may also use these standards to justify import measures which are more trade restrictive than result in a higher level of sanitary protection than would be achieved by measures based on existing OIE trade standards.
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C. Specific issues

4) Trade requirements

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International aquatic animal health trade measures should be based on OIE Standards. A Member Country may authorize the importation of aquatic animals or aquatic animal products into its territory under conditions which result in a higher level of sanitary protection than would be achieved by measures based on more or less restrictive than those recommended by the Aquatic Code. To scientifically justify more trade restrictive measures In that case, the importing country should provide scientific justification based on an assessment of the risks to human or animal life or health according to conduct a risk analysis in accordance with OIE standards, as described in Chapter 2.1. Members of the WTO should refer to develop and apply sanitary measures in accordance with the provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

Rationale

- 1) The OIE Aquatic Animal Health Code should be consistent with Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). According to Item 3 of Article 3 of SPS Agreement, Member Countries may introduce or maintain sanitary measures which result in a higher level of sanitary protection than would be achieved by measures based on the relevant standards of the OIE if there is a scientific justification. It is clear that the text proposed by us is more consistent with SPS Agreement than that by Aquatic Commission.
- 2) The second sentences of B-(4) and C-(4) are described from the proposition that the existing OIE standards are trade restrictive, for the comparative degree is used to estimate the same kind of character. According to Oxford Dictionary, 'restrictive' means 'preventing people from doing what they want'. We believe some OIE standards are contributing to promote international trade that Member Countries want to build up (but not preventing them from doing it), by providing the Member Countries with safe trade standards, based on which, they can make a start on it without anxiety.

In addition, we cannot say that, for example, the following provision in Article 11.1.3. is trade restrictive: *Competent Authorities should not require any abalone herpesvirus related conditions, regardless of the abalone herpesvirus status of the exporting country, zone or compartment when authorising the importation or transit of the following aquatic animals and aquatic animal products from the species referred to in Article 11.1.2. intended for any purpose and complying with Article 5.4.1.* The existing OIE standards are, therefore, not necessarily trade restrictive.

- 3) As described in Chapter 2.1, risk analysis contains the four components: hazard identification, risk assessment, risk management and risk communication. According to Item 1 of Article 5 of SPS Agreement, sanitary measures of Member Countries should be based on a risk assessment but not on a risk analysis.
- 4) WTO Members must not only refer to but also observe the provisions of SPS Agreement. It is rather OIE Codes that the Members should refer to when they develop and apply sanitary measures.

2. Other comments

Japan would like the AAHSC to review the diagnostic methods of infection with *Xenohaliotis californiensis*, for National Research Institute of Aquaculture in Japan have developed a rapid and simple test for the diagnosis (Fish Pathology, 49(2), 41-48, 2014).