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HARMONIZATION ALERT, a publication of Public Citizen, seeks to promote open and accountable policy-making relating to public health, natural resources, consumer safety, and economic justice standards in the era of globalization.

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ENVIRONMENTAL STANDARDS

Topic: *Proposal for Drinking Water and Waste Water Management Committee in ISO*

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In May 2001, the French national standards body AFNOR (*Association Française de Normalisation)* proposed that standards for water services be brought under the purview of a global standard-setting institution called the International Organization for Standardization (ISO). AFNOR is tabling a proposal that would create a new committee in ISO to promulgate global rules for the management of drinking water, wastewater and rainwater sewerage. France is home to two of the largest, private sector water companies in the world. They not only manage water services in France, but these corporations also contract to provide water services to federal and local governments in the developed and developing world. Environmentalist, consumer groups and U.S. water service providers are concerned that an ISO committee dominated by these industry giants would create global standards to encourage the privatization and contracting out of water services.

The timing of the current proposal to globalize and privatize standard-setting in water is striking, because it seems to be a companion effort of the European Union's on-going push to include water services in the World Trade Organization (WTO) services negotiations.[1] The General Agreement on Trade in Services (GATS) is one of more than twenty trade agreements administered and enforced by the WTO. The GATS was established in 1994, at the conclusion of the "Uruguay Round" of the General Agreement on Tariffs and Trade, which established the WTO. The agreement provides for on-going negotiations to deepen and expand its coverage to more service sectors and more nations. Services will be one of the primary topics for discussion at the next WTO Ministerial meeting in Qatar in November 2001.

As one expert put it, "if WTO members decide to bring water services under the GATS, the management of local water services will not only have to be opened up to foreign ownership, but a nation's ability to regulate foreign providers will be greatly curtailed as a result of WTO rules which require the 'least trade restrictive' regulations,"said Ellen Gould, a Canadian specialist on the GATS agreement.

International Organization for Standardization: Founded in 1947, ISO is a private standard-setting organization based in Geneva. It bills itself as a "world-wide federation of national standards bodies from some 140 nations."[2] In some countries, national standards bodies are largely governmental. In others, they are private-sector business associations. In either case, there is a large formal role for industry in technical standards development, and industry representatives dominate the more than 2000 working groups of ISO.

When ISO started, its mission was to standardize sizes for light bulbs, screws, batteries, and other consumer products to facilitate international trade in goods and help industry expand markets. Internationally standardized telephone and ATM banking cards, which are operational world-wide, are ISO success stories.

In the past decade, however, ISO has been attempting to expand its purview into "management" standards with social, environmental and public policy implications.[3] For example, the "ISO 14000 series" of standards focuses on environmental management practices, including a best "environmental practice" seal. These standards have been criticized for not including any substantive environmental criteria such as performance requirements or reporting requirements. The California-based Pacific Institute, for example, has noted that, "the single most important factor undermining the credibility and value of the ISO 14001 standard is the absence of a meaningful public reporting requirement."[4] The result is an industry honor system, which allows corporations to claim that they are engaged in environmental "best practices" without having to document their performance.

ISO's shift from technical engineering standards to management standards has not been accompanied by an analogous shift in the representation of stakeholders within ISO.[5] According to a report for the Brussels-based European Environment Bureau, ISO's standards' drafting committees are "made up principally of executives from large international corporations, national standards-setting firms and consulting firms."[6] The report also notes that "decision-making in ISO is by member associations and firms. Other participants, while they may be invited and are recorded as 'participants' in a 'consensual' decision-making process, do not have voting rights."[7] ISO "has belatedly invited delegates from governments and citizen's groups; but has used this invitation, and the limited participation that ensued, to claim an openness while ignoring their substantive input," the report concluded.[8]

ISO, Water and the World Trade Organization: WTO agreements oblige member governments to base their domestic standard-setting on specified international standards and on international standard-setting techniques. For example, the WTO Technical Barrier to Trade Agreement, which governs trade in non-food products and sets rules about what sorts of domestic regulatory standards are consistent with the WTO, states: "Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations..."[9] The acceptable reasons for exceeding international standards are strictly limited to fundamental climactic, geographical or technical inappropriateness.[10]

In other words, the WTO recognizes international standards as the world's presumptively "trade-legal" standards, and the WTO stands ready to enforce those standards in its powerful and binding dispute resolution system. Because ISO is one of the few standard-setting organizations specifically referenced in WTO agreements, ISO standards are likely to be the point of reference for any dispute involving a conflicting national standard. Poor water service standards set in the ISO could undermine higher standards set by national governments around the world.

AFNOR Proposal: The charge of the proposed ISO water committee is the "standardization of service activities relating to the supply of drinking water and to wastewater and rainwater sewerage."[11] Among other tasks, the committee would:

1. create a "common language" of water management for users, local or national authorities, public or private subcontractors, research departments, and laboratories;[12]
2. draw up guidelines for the management of drinking water supply systems, including all operations related to the management of untreated water resources, production, transport, storage, distribution of drinking water, maintenance and development of infrastructure; and[13]
3. draw up guidelines for the management of wastewater or rainwater sewerage systems, including all operations related to health-related needs of users and the protection of the environment and water resources: collection of waste water, rainwater, treatment prior to discharge, and conditioning of sludge and residue.[14]

The AFNOR proposal is worded in broad, vague terms. However, it is apparent that the ISO committee, if formed, would develop rules for public and private water service providers around the world on how to manage all aspects of water service and delivery.

Critics of the proposal, including the U.S.-based Water and Wastewater Equipment Manufactures Association (WWEMA), have noted that France is unique. It has two water management companies —Vivendi and Suez — which not only provide services to all of France, but which are two of the largest water service providers in the world.[15] The U.S., on the other hand, has over 60,000 municipally owned and managed community water system and 15,000 publicly owned water treatment works.[16] In a letter critical of the new water proposal to ISO, WWEMA president, Dawn Kristof noted "to suggest that the standards that work for the two French companies can be easily transposed and applied to the thousands of U.S. municipal water and wastewater treatment plants is naive at best."[17]

In a July 2001 letter written to the American National Standards Institute (ANSI), which is slated to vote on the French proposal in August, U.S. environmental and public interest groups objected to the French proposal. The letter signed by Friends of the Earth, Sierra Club, the Institute for Agriculture and Trade Policy and Public Citizen stated, "given the complex array of physical, hydrological, socio-economic, cultural, and political factors that come into play [with water service delivery], generic international standards are likely to seriously conflict with local needs, regional legislation, and national standards."[18] The letter further stated that "ISO's lack of transparency, public participation, and a diversity of stakeholders undermine its legitimacy to engage in standard-setting in highly-regulated areas such as water services."[19]

In addition, opponents of water privatization fear that the ISO committee will be used to better position Suez and other multinational giants in the global market. In the U.S., Suez owns United Water Resources.[20] United Water provides water services to a growing number of U.S. cities including Milwaukee, Wisconsin, Houston, Texas, Atlanta, Georgia, and Hoboken, New Jersey.[21]

"Foreign corporations are eager for a bigger share of the U.S. market. There is no doubt that these corporations will use the committee to set global water management rules promoting privatization and subcontracting of municipal water services," said Antonia Juhasz, Water Project Director for the International Forum on Globalization.

According to the United Nations, a staggering 20 percent of the world's people do not have access to clean drinking water, and 50 percent do not have access to water for basic sanitation needs such as bathing.[22] The situation is likely to worsen and spread to developed parts of the world if current patterns of water use continue. In addition, global consumption of water is doubling every 20 years.[23] If current trends persist, by 2025 the demand for fresh water is anticipated to rise 56 percent more than the amount currently available.[24] Many believe that the application of global trade rules that favor corporate investment over universal access and other social and environmental concerns are likely to exacerbate, not ameliorate, the global water crisis.

FOOD SAFETY

Topic: *U.S.- EC Veterinary Equivalency Agreement Turns Two*

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On July 20, 1999 the United States and the European Commission (EC) signed a far-reaching agreement concerning trade in animals and animal products affecting over $1.5 billion in U.S. exports annually.[25] The Veterinary Equivalency Agreement (VEA), which is now two years old, was recently put to the test by the outbreak of foot and mouth disease in Europe.

The VEA was established in the context of heated transatlantic disputes over trade and food safety and a growing number of restrictions on animal products from the European Union (EU). The VEA, which seeks to facilitate trade by allowing parties to recognize aspects of one another's regulatory systems as "equivalent," has significant public health and safety implications for consumers on both sides of the Atlantic.

According to the Food and Agriculture Service, the VEA was intended to provide a forum for resolving problems associated with the introduction of new, EU-wide import regulations for a number of different animals and animal products.[26] The VEA also was intended to facilitate the implementation of international trade rules on equivalency required under the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS).[27]

Article 4.1 of the WTO SPS Agreement, which governs trade in food products, requires countries to "accept the sanitary or phytosanitary measures of other Members as equivalent, even if those measures differ from their own...."[28] In other words, significantly different, and possibly less protective, regulatory systems and standards in other countries can be declared "equivalent" to domestic regulatory systems. Equivalency agreements are designed to allow goods produced under "equivalent" systems "free passage" into the importers market, without reinspection at the border. Critics of equivalency have called it "a method by which nations can create exemptions to each other's food safety laws to advance trade."[29]

Scope of Agreement: The VEA is meant to provide a framework within which equivalency determinations for specific products can be negotiated. Major products covered include: live animals, meat and edible meat offal, fish and crustaceans, molluscs and other aquatic invertebrates, dairy produce, bird's eggs, natural honey, margarine, a variety of animal fats and oils, pasta, soups and broths, ice cream, flours, meals and pellets, animal blood, glands and other animal organs, animal or vegetable fertilizers, casein, gelatins, peptones, enzymes, raw hides, skins and furskins of animals, wool, and fine or coarse animal hair.[30] The VEA also specifically excludes certain items including: food additives, food flavors, color additives, irradiation, contaminants including pesticide and chemical residues, labeling of foodstuffs, feed additives, animal feeds, medicated feeds or premixes.[31]

Considering the scope of products covered by the VEA, a number of U.S. regulatory agencies will play a role in its implementation. In the U.S., the Animal Plant Health Inspection Service (APHIS) of the Department of Agriculture (USDA) and the Fish and Wildlife Service of the Department of the Interior will be involved in the quarantine procedures and veterinary checks required for safe import of live animals. The Food and Drug Administration (FDA) has jurisdiction over dairy, seafood, and animal adulteration from drugs, pesticides or chemicals. The Food Safety and Inspection Service (FSIS) of the Department of Agriculture regulates meat and poultry for human consumption, and the regulation of eggs and animal feed is a joint duty of FDA and FSIS. Either party to the VEA can propose modifications to the agreement, extend it to new product areas, or withdraw from the agreement after giving six months notice.[32]

The Equivalency Determination Process: The VEA outlines a four step process for determining the equivalence of U.S. and EU standards. Article 7 of the VEA requires that: 1) the parties identify the sanitary measure for which equivalence is sought; 2) the importing party explains the objective of the sanitary measure; 3) the exporting party demonstrates that its sanitary measure achieves the importing party's appropriate level of protection; and 4) the importing party analyzes the supplied information.[33] The type of information analyzed includes risks identified by the importing party, provisions within the exporting party's legislation regarding standards, procedures, policies, infrastructure, the resources and relative power of the exporting party to enforce these controls, and evidence from the exporting party as to the efficacy of its enforcement controls.[34]

Once an equivalency determination has been made, the laws and regulations of the exporting party will apply. In other words, goods must be allowed which meet the exporting party's standards even if they do not precisely meet the standards of the importing party.[35]

Annex 5 of the VEA charts the progress on determining equivalency for 43 different product areas. Products are labeled with one of five "equivalency status" ratings. Three levels of progress toward equivalency are recognized, ranging from "equivalent," "equivalent with special conditions," to "equivalent in principle." Products may also be labeled as "not evaluated" or "still evaluating."[36]

The parties have already made progress in determining equivalence in a number of product areas. These areas are divided into animal and human health as there are different regulations governing animal health and the human health aspects of animal consumption. The EC has determined that the U.S. is equivalent in the areas of fisheries products for human consumption (with qualifications), egg products for human consumption (animal health), shell eggs (animal health) and poultry meat (animal health).[37] The U.S. has moved much faster than the EC and has determined 25 areas of EC law and regulation equivalent, primarily in the animal health area.[38] Many products are still being evaluated or haven't been evaluated at all. However, this does not mean that trade will not occur, rather it means that the goods still must meet the importing party's requirements.[39]

Although Article 7.4 of the VEA states that the importing party makes the ultimate decision regarding specific equivalency determinations,[40] denial of

equivalency can be challenged as a barrier to trade in the powerful dispute resolution system of the WTO. According to Bruce Silverglade at the Center for Science in the Public Interest, a WTO dispute resolution panel could "force a nation to choose between weakening its health standards for humans, animals, or plants, or paying an international penalty."[41]

Verification and Inspection: Article 9 of the VEA provides for verification, a process by which an importing party can audit an exporting party's control program, conduct on-site inspections, border checks, or undertake other mutually agreed upon processes which satisfy the importing party that all equivalency requirements have been met.[42]

However, in one of the biggest changes under the agreement, EU inspectors will no longer inspect and certify U.S. plants as eligible for export of red meat. Instead, the inspectors will accept certification of U.S. plants by the USDA and visa versa.[43] In other words, each side would ultimately be in charge of determining which plants are eligible to ship to the other's market. Indeed, since the veterinary agreement was completed, EU veterinarians based in the U.S. have stopped conducting traditional audits at U.S. slaughterhouses and instead conduct "systems audits" of the paperwork and procedures at various plants.

In addition, while border inspections are allowed under the agreement, the VEA contains language that suggests that they will eventually be dropped once there is progress towards achieving equivalency. Annex VII states that "the Parties may modulate their physical checking frequencies for imports of animal products... in light of progress made toward the recognition of equivalence...."[44] Further, in Annex VIII, there is a short list of unresolved "outstanding issues." One of them involves frontier checks and states that "the Parties agree to work to further develop agreed arrangements concerning frontier checks, including the frequency of physical checks."[45] This language indicates that the parties to the VEA may one day stop border inspections of the imported goods covered by the agreement when equivalence is fully implemented.

Border inspections were eliminated once before with disastrous results for consumer protection and food safety. The 1989 U.S.-Canada Free Trade Agreement generated an equivalency agreement on meat inspection. In February of 1990, the countries announced that they would eliminate all border inspections for meat imported from one country to another.[46] Shortly after U.S. and Canadian officials touted the agreement as "the first time in our countries' history that we have been able to open our borders for food safety standards," alarming warnings reached Congress about the results. A U.S. meat inspector with 26 years of experience blew the whistle on USDA for allowing contaminated Canadian meat into the country unchecked.[47] Later, Jack Perrault, director of International Import Inspection Service condemned USDA for "giving up consumer protection for free trade."[48]

For a short period of time, the problems generated by the equivalency agreement received intense scrutiny including a Congressional hearing and an General Accounting Office investigation. However, years later, meat inspectors at the border continue to report to Public Citizen that they do very little inspection of product at the Canadian border and instead review the paperwork to determine if the product was checked by Canadian inspectors.

Regionalization of Animal Disease: Another important aspect of the VEA, which resulted in a regulatory change in the U.S., involves the issue of determining what regions are free of certain animal diseases and therefore eligible for export. Article 6 of the VEA states that "the importing Party shall recognize for trade the health status of regions, as determined by the exporting Party."[49] This tracks the international standards set by the International Office of Epizootics, a veterinary standard setting institution based in Paris, but represents a significant shift in U.S. policy. Prior to the equivalency agreement, when there was an outbreak of an animal disease in a European country, the U.S. would commonly ban imports from the entire country. Now, under the regionalization rules of the VEA, the EC is supposed to determine the sub-national region which is diseased and from which products can be banned. On October 28, 1997, U.S. APHIS issued a final rule implementing the changes to U.S. regulations needed to fulfill the regionalization requirements of the equivalency agreement before the VEA was even signed.[50]

The animal diseases covered in the VEA include foot and mouth disease, swine vesicular disease, Newcastle disease, blue tongue, swine fever, fowl plague, peste de petitis ruminants, contagious caprine plueropneumonia, sheep and goat pox, African swine fever, enterovirus encephalomyelitis, pseudorabies, vesicular stomatistis, rinderpest, African horse sickness, and Venezuelan equine encephalomeyelitis.[51] Parties to the VEA are also required to inform one another within 24 hours of any serious animal disease or public health risk both orally and in writing.[52] Notably, classical swine fever (hog cholera) is also on the list of diseases covered by the VEA, yet APHIS has never completed the rule making necessary to designate the EU a region free of the disease.[53]

The new rules on regionalization were recently put to the test by the outbreak of foot and mouth disease in Europe. Even though a 1997 U.S. ban on all ruminants and

ruminant products from the EU remained in effect due to outbreak of mad cow disease, other animals and animal products were still allowed into the U.S., primarily pork.[54] In February 2001, however, the first cases of the economically devastating foot and mouth disease were confirmed in England. Within a month, it had spread to France.[55] The U.S. immediately banned all remaining animals and meat products from the entire EU, even though many countries had no reported cases of the devastating disease, and considered placing further restrictions on cheese and dairy products.[56] EC officials criticized the ban as contrary to the equivalency agreement, and David Byrne, the EC's Food Safety Commissioner called the move excessive and unjustified and threatened to go to the WTO if the ban remained in effect.[57]

The U.S. justified its actions under the emergency measures in the equivalency agreement. Article 12 of the VEA states the "either Party may take provisional measures necessary for the protection of public or animal health," but the Parties are to "avoid unnecessary disruption to trade."[58] In late May 2001, the USDA removed import restrictions for pork from European countries considered to be at low risk for foot and mouth disease.[59]

There are inherent dangers associated with regionalization. Importing parties need assurance that federal and sub-federal veterinary authorities will honestly and promptly report potentially devastating diseases. Yet this does not always occur. Recently, for example, many countries in Latin America were highly critical of Argentina for allegedly hiding an outbreak of foot and mouth disease that quickly moved to other countries in the region.[60] In addition, the importing country needs assurance that animals and animal products from a high risk region of a country are not simply moved to a lower risk area for processing and/or shipment. This takes resources and already a number of critics have charged that "APHIS lacks the budget and infrastructure" to adequately administer the regionalization rule.[61]

Conclusion*:* According to the APHIS, the VEA was negotiated for six years before it was finalized.[62] The agreement was signed on behalf of the United States by Ambassador Richard Morningstar, head of the U.S. Mission to the EU, and by Kalevi Hemila, Minister of Agriculture and Franz Fischler, Member of the Commission on behalf of the European Community. In the EU the agreement was approved in advance of its signing by the European Counsel, with representatives of all the EU member states.[63] In the U.S., there were no public meetings, no Congressional hearings and the agreement was never noticed or published in the Federal Register by any agency. As a consequence, the legal status of the agreement is ambiguous, as is the binding nature of the agreement.

This complex, far-reaching agreement was signed before the American public was aware it was even being negotiated. This contravenes USDA and FDA policy of including the public in equivalency decision-making in the food area. It has yet to be seen whether or how agencies will notify the pubic when specific equivalency determinations are made in heach of the 42 product areas. According to the federal law that implemented the Uruguay Round agreements in 1994, USDA and FDA are required to notify the public before reaching any equivalency agreements in the food area.[64]

The U.S. already has some familiarity with equivalency, because USDA statutes require the department to determine that countries are "equivalent" before they are eligible to export meat into the U.S. In 1999, USDA determined that 36 countries had developed HACCP standards "equivalent" to U.S. standards and were therefore eligible to export meat to the U.S. All EC countries were on this list with the exceptions of Greece, Portugal and Luxembourg. On June 21, 2000, the USDA's Inspector General issued a damning report of the FSIS process for determining equivalency. Among other things, the report found: 1) USDA granted equivalency status to six countries before it performed onsite reviews contrary to U.S. policy; 2) 19 countries were allowed to ship meat into the U.S. even though they had not certified that all their establishments comply with U.S. standards; and 3) USDA allowed thousands of pounds of meat from delisted plants into the U.S. because it failed to regularly update its database.[65]

Given the lack of transparency that has accompanied the VEA and the USDA's poor performance in determining equivalency in the meat inspection area, U.S. consumers must remain vigilant in monitoring the implementation of this and other equivalency agreements.

FEDERAL REGISTER ALERTS

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Department of Agriculture

Mandatory Inspection of Ratites and Squabs (FSIS)

66 Fed. Reg. 21631-21639 (May 1, 2001)
Interim final rule. Comments must be received on this interim final rule by July 2, 2001.

Meeting on Agreement Between the United States and the European Community on Sanitary Measures To Protect Public and Animal Health in Trade in Live Animals and Animal Products

66 Fed. Reg. 22998-22999 (May 7, 2001)
Notice of meeting. Meeting on May 15, 2001.

Notice of Meeting of the National Organic Standards Board

66 Fed. Reg. 27625 (May 18, 2001)
Notice. Meeting on June 6-7, 2001.

Science Based Reinspection of Imported Meat and Poultry Products

66 Fed. Reg. 29075-29076 (May 29, 2001)
Notice of public meeting. Meeting on June 8, 2001.

National Advisory Committee on Meat and Poultry Inspection

66 Fed. Reg. 29076-29077 (May 29, 2001)
Notice of public meeting. Meeting on June 5-6, 2001.

International Standard-Setting Activities (FSIS)

66 Fed. Reg. 29531 (May 31, 2001)
Notice. Seeks comments on standards currently under consideration and recommendations for new standards.

Change in Disease Status of France, Ireland, and The Netherlands Because of Foot-and-Mouth Disease (APHIS)

66 Fed. Reg. 29686-29689 (June 1, 2001)
Interim rule and request for comments. Comments due July 31, 2001.

Department of Commerce

National Voluntary Laboratory Accreditation Program; Operating Procedures (NIST)

66 Fed. Reg. 29219-29224 (May 30, 2001)
Final rule. This rule is effective June 29, 2001.

Department of Health and Human Services

International Conference on Harmonisation; Choice of Control Group and Related Issues in Clinical Trials; Availability (ICH)

66 Fed. Reg. 24390-24391 (May 14, 2001)
Notice. This guidance is effective May 14, 2001. Submit written comments on agency guidances at any time.

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Final Guidance for Industry entitled ``Good Clinical Practice'' (VICH GL9); Availability
66 Fed. Reg. 26868-26869 (May 15, 2001)
Notice. Submit written comments at any time. This guidance will be implemented July 1, 2001.

Medical Devices; Global Harmonization Task Force; Study Group 1; Working Draft ``Medical Devices Classification;'' Availability **(GHTF)**
66 Fed. Reg. 27150-2715 (May 16, 2001)
Submit written comments concerning this at any time. FDA must submit its comments to GHTF by July 1, 2001.

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Final Guidance for Industry on ``Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients'' (VICH GL18); Availability
66 Fed. Reg. 28182-28183 (May 22, 2001)
Notice. Submit written comments accepted at any time.

New Food Chemicals Codex Monographs, Revisions of Certain Food Chemicals Codex Monographs, Revision of a General Test Procedure, and New Test Solutions
66 Fed. Reg. 31936-31938 (June 13, 2001)
Public Notice. Submit written comments by July 30, 2001.

Department of State

Shipping Coordinating Committee; Notice of Meeting
66 Fed. Reg. 29853 (June 1, 2001)
Notice. Meeting on June 19, 2001.

Department of Transportation

Research and Special Programs Administration (RSPA)
66 Fed. Reg. 23756 (May 9, 2001)
Notice of public meeting. Meeting June 19, 2001.

Aviation Rulemaking Advisory Committee; General Aviation Certification and Operations Issues--New Task (FAA)
66 Fed. Reg. 30499-30500 (June 6, 2001)
Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

Aviation Rulemaking Advisory Committee:
Transport Airplane and Engines Issues--New Task (FAA)
66 Fed. Reg. 31273-31274 (June 11, 2001)
Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

International Conference on Fire and Cabin Safety Research (FAA)
66 Fed. Reg. 31964-31965 (June 13, 2001)
Notice of public conference on October 22-25, 2001.

Revisions to Requirements Concerning Airplane Operating Limitations and the Content of Airplane Flight Manuals for Transport Category Airplanes
66 Fed. Reg. 34013 (June 26, 2001)
Final rule.

NOTES

1. European Community, *Communication from the European Community and Their Member States: Classification of Issues in the Environment Sector*, WTO Submission, S/CSC/W/25, Sep. 28, 1999.

2. ISO Webpage, Introduction, *"What is ISO?"* Jul. 26, 2001 available at http://www.iso.ch/iso/en/aboutiso/introduction/index.html.

3. Jason Morrison et al., *Managing a Better Environment: Opportunities and Obstancles for ISO 14001 in Public Policy and Commerce*, Pacific Institute For Studies in Development, Environment, and Security, Mar. 2000, at 97.

4. *Id*, at 96.

5. *Id*, at 97.

6. Benchmark Environmental Consulting, *ISO 14001: An Uncommon Perspective - Five Public Policy Questions for Proponents of the ISO 14000 Series*, Nov. 1995, at 13.

7. *Id.* at 11.

8. *Id.* at 12.

9. TBT Agreement, Arts. 2-4, in Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, GATT Doc. MTN/FA (Dec. 15, 1993), 33 I.L.M. 9 (1994).

10. *Id.*

11. ISO/TMB/TSP 194 May 14, 2001, at 1.

12. *Id.* at 2.

13. *Id.* at 2.

14. *Id.* at 2.

15. Dawn Kristof, President, Water and Wastewater Equipment Manufacturers Association (WEMA), letter to Michael J. Smith, ISO Central Secretariat, Jul. 20, 2001 on file with Public Citien.

16. *Id.*

17. *Id.*

18. Letter from public interest groups to American National Standards Institute, Jul. 26, 2001, on file with Public Citizen.

19. *Id.*

20. *"United Water Seals Contract with Atlanta,"* Atlanta Business Chronicle, Nov. 12, 1998.

21. United Water web page, "Municipal Info," Jul. 26, 2001, at www.unitedwater.com/municpal.htm.

22. United Nations Economic and Social Council, *Commission on Sustainable Development, Strategic Approaches to Freshwater Management*, Report of the Secretary General E/CN.17/1998/2, Jan. 27. 1998.

23. Maude Barlow, *"The Global Water Crisis and the Commodification of the World's Water Supply,"* Introduction, The Blue Planet Project, Blue Gold, revised edition, Spring 2001.

24. *Id.*

25. Agreement between the United States of America and the European Community on Sanitary Measures to Protect Public and Animal Health in Trade in Live Animals and Animal Products, [Hereafter VEA], Jul. 20, 1999, on file with Public Citizen. $1.5 billion from "US, EU Sign Veterinary Equivalency Agreement to Facilitate Trade," APHIS Press Release, Jul. 20, 1999.

26. Catherine Otte, Food and Agriculture Service, Remarks, Public Meeting on U.S.-EC Veterinary Equivalency Agreement, May 15, 2001,U.S. Department of Agriculture, on file with Public Citizen.

27. *Id.*

28. SPS Agreement, Arts. 4.1 in Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, GATT Doc. MTN/FA (Dec. 15, 1993), 33 I.L.M. 9 (1994).

29. Silverglade, Bruce, *"The WTO Agreement on Sanitary and Phystosanitary Measures: Weakening Food Safety Regulations to Facilitate Trade?"* Food and Drug Law Journal, Vol. 55, No. 4, at 517.

30. VEA, Annex 1.

31. VEA, Art. 3 (2).

32. VEA, Art. 3.3.

33. VEA, Art. 7.

34. VEA, Art. 7.

35. While never stated this bluntly in the agreement, Annex V states that prior to determination of equivalence, "trade shall occur on the basis of compliance with the importing Party's requirements." This language leads to the conclusion, confirmed by U.S. officials, that after determination of equivalence trade will occur on the basis of the exporting parties requirements.

36. VEA, Annex V.

37. VEA, Annex V.

38. These items include: fresh meat for horses and pork (animal health); poultry meat (animal health); pigs and poultry (meat products); farmed game meat rabbit pork, feathered animals (animal health); minced meat for pigs (animal health); meat preparation for pigs and poultry (animal health); hides and skins of cattle (animal health); dry and semi-moist petfood containing nonmamallian material; bones and bone products for human consumption of poultry, feathered farmed and wild game (animal health); processed animal protein for human consumption fresh meat poultry (animal health); processed animal protein for human consumption all species (public health); processed animal protein not for human consumption poultry and fish; blood and blood products intended for human consumption fresh meat poultry, farmed and wild game, pigs and deer (animal health).

39. VEA, Annex V.

40. VEA, Art. 7 (4).

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42. VEA, Art. 9 (2).

43. *"U.S., EU Sign Vet Agreement More Than Two Years After Completion,"* Inside U.S. Trade, Jul. 23, 1999.

44. VEA, Annex VII.

45. VEA, Annex VIII.

46. David Lapp, *"Return to the Jungle,"* Multinational Monitor, May 1990.

47. *Id.*

48. *Id.*

49. VEA, at Art. 6 (1).

50. 62 FR 55999, Oct. 28, 1997.

51. VEA, Annex III.

52. VEA, at Art. 11(1).

53. 64 FR 34155, Jun. 25, 1999.

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55. "Foot and Mouth Crisis Timetable," May 30, 2001, available online at http://asia.cnn.com/2001/WORLD/europe/UK/04/11/fandm.timeline, on file with Public Citizen.

56. *Id.*

57. Melinda Fulmer, *"Bans on Meat Imports Fuel Claims of Protectionism,"* Los Angeles Times, May 21, 2001.

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59. United States Department of Agriculture, "USDA Removes Import Restrictions for Certain European Union Countries; Continues Vigilance at Borders to Protect U.S. Agriculture Against Virus," Press Release, May 25, 2001.

60. *"South Americans Call on Governments to Come Clean on Foot-and-Mouth,"*Agence France Presse, Mar. 14, 2001.

61. 62 Fed. Reg. 55999, Oct. 28, 1997 at p. 56004.

62. "U.S., EU Sign Veterinary Equivalency Agreement to Facilitate Trade," APHIS Press Release, Jul. 20, 1999.

63. Counsel Decision L118, 98/258/EC, adopted Apr. 21, 1998.

64. The Uruguay Round Agreement Act, Sec. 492, P.L. 103-465; Dec. 8, 1994.

65. *See,"USDA Releases Report Criticizing FSIS Process for Determining Equivalence,"* Harmonization Alert, May/June 2000.