

STATEMENT BY THE DELEGATION OF ARGENTINA ON
NOTIFICATION G/SPS/N/EEC/47

Meeting of 1-2 July 1997

1. Our delegation would like to communicate that having analysed:

- (a) The biology of the disease;
- (b) its persistence and potential for infection;
- (c) the extent of the area actually endangered (about 0.16 per cent of the territory of the European Union);
- (d) the prior existence of regulations within the Community which, on the basis of the extensive trade and phytosanitary experience accumulated both in the general areas and in the restricted areas without a single case of persistence or spread of canker, would already appear to be effective in providing adequate risk protection;

the Phytosanitary Protection Service of Argentina, which is part of the National Health and Foodstuff Quality Service (SENASA), considers the measure proposed in notification G/SPS/N/EEC/47 of 9 June 1997 concerning the certification of fruit from areas affected by the disease known as "citrus canker" (*Xanthomonas axonopodis* pv. *citri*, ex-*Xanthomonas campestris* pv. *citri*) to be more restrictive to international trade than would seem necessary.

2. In short, this analysis has led to the conclusion that:

- (a) Citrus canker is not transmitted through citrus fruit.
- (b) The bacterium does not survive as an epiphyte on the surface of the fruit and the risk of its introduction as a contaminant is virtually zero.
- (c) According to the European Plant Protection Organization (EPPO), the fruit cannot be considered as a pathway for transmitting the disease.
- (d) An area of more than 3,000,000 km² is to be isolated to protect what in reality amounts to only 5,300 km² (barely 0.16 per cent of the total area).
- (e) The planned risk reduction system constitutes an agglomeration of protection measures which are superimposed on one another and therefore appear to be unnecessary: production units free of symptoms of the disease, fruit free of symptoms and external disinfecting of the fruit with recognized bactericides.

- (f) The principle of proportionality of the level of protection has not been observed. What has been applied is not the concept of minimum trade risk, but zero risk. In this connection, we welcome, and indeed share the views expressed in document COM(97)183 Final dated 30 April 1997, which was just distributed to this meeting of the Committee by the delegation of the European Union. Page 20 of that document contains the following remark: "Here it is useful to recall that since there is not such a thing as "zero risk" - information on the level of risk is essential for the consumer. The Commission will be guided in its risk analysis by the precautionary principle, in cases where the scientific basis is insufficient or some uncertainty exists." The Community accepts that there is no such thing as zero risk, but at the same time seems to be trying to apply it de facto through the provisions of this draft regulation.
- (g) The goods imported into the territory of the Community are intended for the large consumer centres and are unlikely to be sent to the production areas.
- (h) Before the final version of the draft regulation in question had been prepared, Argentina provided the authorities of the Commission with various elements of analysis such as a risk analysis of the case under discussion, the basic scientific documents and the recorded precedents, without thus far receiving an official reply as to their validity. We would like to take advantage, in this connection, of the comments made by the representative of the European Union delegation regarding the Swiss statement on BSE in which he invited Switzerland to hold "an open and frank discussion": we would welcome such an opportunity.
- (i) While we recognize the European Union's right to free zones, we think that in this case it should take all the necessary steps to apply the measures in the area actually at risk and within the framework of the provisions of the SPS Agreement.

3. Our Government has not seen the results of any pest risk analysis that the European Union authorities may have conducted before the Community reached the conclusion that the need to raise the level of phytosanitary protection could be justified, nor indeed do we know that such an analysis was conducted at all. In principle, therefore, it appears possible that the measures proposed by the European Union might be more restrictive than necessary, in which case they would be inconsistent, at least, with the provisions of Articles 2:1 and 2:2; 3:2; 4:1 and 4:2; 5:2, 5:3, 5:4, 5:6 and 5:8; and 6:1 and 6:2 of the WTO Agreement on Sanitary and Phytosanitary Measures.

4. The Government of Argentina considers the resolution of this question through consultations with the European Union, within the framework of this Committee, to be of high priority and urgent, and requests the Chairman to organize such consultations on the basis of this statement as soon as possible. In view of the importance of finding a mutually satisfactory solution to this case without affecting the significant trade flows that have traditionally existed, we would ask the European Union to make a special effort to that end.

5. To summarize, our delegation requests:

- (a) The holding of technical consultations with the authorities and experts of the European Union with a view to examining together the risk analysis conducted by the Commission, comparing it with our interpretations and our own risk analysis, and considering the scientific evidence used for the purpose.
- (b) That during the said consultations, the administrative processing of the proposed regulation should be suspended in order to allow time to incorporate such changes or

adjustments as might avoid unnecessary problems for non-Community suppliers that could possibly affect significant traditional trade flows.

- (c) That a systematic examination be carried out of the present and future contractual impact on international trade in agricultural goods of the application of restrictive measures to an economic bloc without justification from the point of view of the ecology or biology of the pests and for the apparent purpose of protecting a small production area. In particular, the possible extension of the European Union could mean an increase in the number of special cases which the Community would be tempted to solve in a similar way, i.e. by simply extending its to entire territory conditions which presumably apply to a specific problem only.

In the view of our delegation, this would result, in the short term, in an unjustified diversion of trade to the advantage of the members of a regional agreement and to the detriment not only of many WTO Members, that would be automatically excluded, but of the system as a whole.