

Committee on Sanitary and Phytosanitary Measures

**PROGRAMME TO FURTHER THE IMPLEMENTATION
OF ARTICLE 4 OF THE SPS AGREEMENT**

Proposal by the Chairman

At its meeting of 31 October-1 November 2001, the Committee discussed the issue of equivalence, its recent decision on the implementation of Article 4 and the need to develop a programme for further work (G/SPS/R/25, paragraphs 57-60). In the course of this discussion, some Members suggested that what constituted "historic trade" and an "accelerated procedure" in the context of paragraph 5 of the Decision on Equivalence should be clarified. Others suggested a need also for the clarification of paragraph 6 regarding the term "on-going imports" and the matter of emergency situations.

The Chairman encouraged Members to identify the issues they would like to see considered in the work programme and to provide background papers or proposals by 31 December 2001. The Chairman agreed to put together a proposal for a future work programme on the basis of these submissions, to be submitted to Members in advance of the next meeting of the Committee.

No further suggestions or submissions relating to the work programme were provided by Members. In view of the mandate from the Ministerial Conference that the Committee "develop expeditiously" its further work programme, the Chairman is circulating the attached proposal on his own initiative for consideration by the Committee.

Introduction

1. At its special meeting of 24 October 2001, the Committee on Sanitary and Phytosanitary Measures adopted the Decision on Equivalence (G/SPS/19). Paragraph 13 of the Decision stipulates that the Committee shall develop a specific programme to further the implementation of Article 4 of the SPS Agreement, with particular consideration of the problems encountered by developing country Members. The Fourth Ministerial Conference took note of the Decision on Equivalence and instructed " ... the Committee to develop expeditiously the specific programme to further the implementation of Article 4" of the SPS Agreement.¹

2. This document suggests a specific programme for further work by the Committee in its meetings for 2002 and 2003. Input would be solicited from Members, the Secretariat and the relevant international organizations in advance of each meeting, for consideration of the specific issue by the Committee at informal and formal meetings. This programme is developed on the assumption that the Committee would continue to hold three regular meetings each year, as tentatively scheduled.

3. This proposed work programme focuses primarily on those issues which some Members have already identified as needing further clarification or action. However, Members could request further action on other elements of the Decision on Equivalence at any time. The proposal also foresees a review of the Decision on Equivalence within 24 months.

Actions already taken

4. The attention of the Committee is drawn first to those actions which have already been taken subsequent to the adoption of the Decision. Paragraph 12 of the Decision indicates that Members should regularly provide information on their experience regarding the implementation of Article 4 to the Committee, and in particular provide information on the successful conclusion of any bilateral equivalence agreements or arrangements. At its meeting of 30 October–1 November 2001, the Committee agreed to establish a standing agenda item for this purpose. This is reflected in the proposed agenda for the meeting of 20-21 March 2002 (WTO/AIR/1706).

5. Paragraph 10 of the Decision indicates that the Committee shall encourage the Codex Alimentarius Commission (Codex), the Office International des Epizooties (OIE) and the Interim Commission on Phytosanitary Measures (ICPM) to develop appropriate guidelines and to keep the Committee regularly informed regarding their activities relating to equivalence. I have written to these three organizations to draw their attention to this aspect of the Decision, and requested that they report regularly to the Committee. Copies of this correspondence are attached in the Annex. The proposed agenda item on Equivalence includes a sub-item regarding information from these organizations.

6. According to paragraph 11 of the Decision, the Committee shall revise its recommended notification procedures to provide for the notification of the conclusion of agreements which recognize equivalence. The Secretariat has circulated separately a proposed format for the notification of such agreements for consideration by the Committee at its meeting in March 2002.²

¹ WT/MIN(01)/17, paragraph 3.3.

² G/SPS/W/114.

Proposed programme for further work

Informal and regular meetings of 18-21 March 2002

- Information from Members on their experiences regarding implementation of Article 4. Information submitted by Members should take into account the various elements contained in the Decision and particularly: (i) any successfully concluded bilateral equivalence agreements or arrangements; (ii) technical assistance activities related to the implementation of Article 4; and (iii) assistance provided to developing countries to facilitate their participation in the work of the standard-setting bodies.
- Consideration of information from the Codex, OIE and ICPM regarding their work on the issue of equivalence.
- Consideration and adoption of a format for the notification of agreements recognizing equivalence.
- In the course of its review of the transparency provisions, consideration of specific text drawing attention to the responsibility of national Enquiry Points to provide information.
- Further examination and discussion of the proposals submitted by Argentina regarding clarification of paragraph 5 of the Decision with respect to accelerated procedures for determining equivalence in respect of products historically imported from the exporting Member.³
- Preliminary discussion of paragraph 6, including with regard to the relationship between current imports and potential compliance problems.

Informal and regular meetings of 17-20 June 2002

- Information from Members on their experiences regarding implementation of Article 4.
- Consideration of information from the Codex, OIE and ICPM regarding their work on the issue of equivalence.
- Consideration of any notifications received regarding agreements recognizing equivalence.
- Information from Members (and from the relevant observer organizations) regarding usual procedures for the determination of equivalence with respect to products which have not been previously imported from the interested exporting country.
- Examination of procedures to identify which steps might be accelerated, minimized or eliminated altogether with respect to products which have previously been imported from the exporting country, on the basis of categorization of historic or previous trade patterns (eg., whether previous trade has been sporadic or virtually continuous; whether previous trade has fully complied with the importing country's SPS requirements or problems have been identified); and the nature of the health risks posed by the imported product and their potential severity.
- Suggestions by Members for clarification of the provisions of paragraph 6, including with regard to the relationship between current imports and potential compliance problems.

Informal and formal meetings of 21-24 October 2002

- Information from Members on their experiences regarding implementation of Article 4.
- Consideration of information from the Codex, OIE and ICPM regarding their work on the issue of equivalence.
- Consideration of any notifications received regarding agreements recognizing equivalence.

³ G/SPS/W/116.

- Consideration of draft guidance for accelerated procedures for the recognition of equivalence of products historically traded, on the basis of categorization of trade patterns and risks.
- Consideration of a draft text clarifying the provisions of paragraph 6, including with regard to the relationship between current imports and potential compliance problems.
- Consideration and adoption of the report to the Trade Negotiating Committee regarding progress on the implementation of Article 4, as stipulated in paragraph 12 of WT/MIN(01)/DEC/1.

First informal and formal meetings of 2003

- Information from Members on their experiences regarding implementation of Article 4.
- Consideration of information from the Codex, OIE and ICPM regarding their work on the issue of equivalence.
- Consideration of any notifications received regarding agreements recognizing equivalence.
- Consideration and, if possible, adoption of guidance for accelerated procedures for the recognition of equivalence of products historically traded.
- Consideration and, if possible, adoption of text clarifying the provisions of paragraph 6.

Second informal and formal meetings of 2003

- Information from Members on their experiences regarding implementation of Article 4.
- Consideration of information from the Codex, OIE and ICPM regarding their consideration of the issue of equivalence.
- Consideration of any notifications received regarding agreements recognizing equivalence.
- Commence review of the Decision on Equivalence in light of the experience of Members and work undertaken in the Codex, OIE and ICPM.

ANNEX

Dr. Thomas Billy
Chairperson
Codex Alimentarius Commission
Food Policy and Nutrition Division
Food and Agriculture Organization
Viale delle Terme di Caracalla
00100 Rome

Dear Dr. Billy,

.....
On 24 October 2001, the Committee on Sanitary and Phytosanitary Measures adopted a Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/19, attached). Article 4 requires WTO Members to accept the sanitary or phytosanitary measures of other Members as equivalent if these can be demonstrated to achieve the importing country's appropriate level of sanitary or phytosanitary protection.

The SPS Committee's Decision addresses the difficulties which many Members, and in particular developing country Members, have experienced in ensuring the implementation of this provision.

You will note that the SPS Committee recognizes the ongoing work of the Codex Alimentarius Commission on the issue of equivalence, and encourages WTO Members to actively participate in this work (paragraph 9).

In addition, the SPS Committee recognizes the urgency for the development of guidance on the judgement of equivalence, and through this letter formally encourages the Codex Alimentarius Commission to complete its work with regard to equivalence as expeditiously as possible (paragraph 10).

Furthermore, I invite the Codex Alimentarius Commission to continue to keep the SPS Committee regularly informed regarding its activities relating to equivalence. I would hope that such information could be provided both in writing and orally by the observer representative of the Codex Alimentarius Commission to the regular and informal meetings of the SPS Committee. The next informal meeting of the SPS Committee on the issue of equivalence is tentatively scheduled for 19 March 2002, to be followed by the regular meeting on 20-21 March 2002.

I wish to express my appreciation for the valuable information and assistance which the Codex Alimentarius Commission and the observer representatives of the Codex have already provided to the SPS Committee in its consideration of equivalence.

I would appreciate your bringing this communication and the SPS Committee's Decision to the attention of members of the Codex Alimentarius Commission.

I would like to take this opportunity to assure you of my highest consideration.

Sincerely yours,

William Ehlers
Chairman of the Committee on Sanitary
and Phytosanitary Measures

Dr. Alex Thiermann
Chairperson
International Committee OIE
Office international des Epizooties
Rue de Prony 12
75017 Paris

Dear Dr. Thiermann,

.....
On 24 October 2001, the Committee on Sanitary and Phytosanitary Measures adopted a Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/19, attached). Article 4 requires WTO Members to accept the sanitary or phytosanitary measures of other Members as equivalent if these can be demonstrated to achieve the importing country's appropriate level of sanitary or phytosanitary protection.

The SPS Committee's Decision addresses the difficulties which many Members, and in particular developing country Members, have experienced in ensuring the implementation of this provision.

You will note that the SPS Committee encourages WTO Members to actively participate in any work on the issue of equivalence which may be undertaken by the Office International des Epizooties (paragraph 9).

In addition, through this letter the SPS Committee formally encourages the Office International des Epizooties to elaborate guidelines, as appropriate, on equivalence of sanitary measures and equivalence agreements in the animal health area (paragraph 10).

Furthermore, I invite the Office International des Epizooties to keep the SPS Committee regularly informed regarding its activities relating to equivalence. I would hope that such information could be provided both in writing and orally by the observer representative of the OIE to the regular and informal meetings of the SPS Committee. The next informal meeting of the SPS Committee on the issue of equivalence is tentatively scheduled for 19 March 2002, to be followed by the regular meeting on 20-21 March 2002.

I wish to express my appreciation for the valuable information and assistance which the Office International des Epizooties and the observer representatives of the OIE have already provided to the SPS Committee.

I would appreciate your bringing this communication and the SPS Committee's Decision to the attention of members of the Office International des Epizooties.

I would like to take this opportunity to assure you of my highest consideration.

Sincerely yours,

William Ehlers
Chairman of the Committee on Sanitary
and Phytosanitary Measures

Dr. Felipe Canale
Chairperson
Interim Commission on Phytosanitary
Measures
Plant Production and Protection Division
Viale delle Terme di Caracalla
00100 Rome

Dear Dr. Canale,

.....
On 24 October 2001, the Committee on Sanitary and Phytosanitary Measures adopted a Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/19, attached). Article 4 requires WTO Members to accept the sanitary or phytosanitary measures of other Members as equivalent if these can be demonstrated to achieve the importing country's appropriate level of sanitary or phytosanitary protection.

The SPS Committee's Decision addresses the difficulties which many Members, and in particular developing country Members, have experienced in ensuring the implementation of this provision.

You will note that the SPS Committee encourages WTO Members to actively participate in any work on the issue of equivalence which may be undertaken in the framework of the International Plant Protection Convention (paragraph 9).

In addition, through this letter the SPS Committee formally encourages the Interim Commission on Phytosanitary Measures to elaborate guidelines, as appropriate, on equivalence of phytosanitary measures and equivalence agreements in the plant protection area (paragraph 10).

Furthermore, I invite the Interim Commission on Phytosanitary Measures to keep the SPS Committee regularly informed regarding its activities relating to equivalence. I would hope that such information could be provided both in writing and orally by the observer representative of the IPPC to the regular and informal meetings of the SPS Committee. The next informal meeting of the SPS Committee on the issue of equivalence is tentatively scheduled for 19 March 2002, to be followed by the regular meeting on 20-21 March 2002.

I wish to express my appreciation for the valuable information and assistance which the IPPC and its observer representatives have already provided to the SPS Committee.

I would appreciate your bringing this communication and the SPS Committee's Decision to the attention of members of the International Plant Protection Convention.

I would like to take this opportunity to assure you of my highest consideration.

Sincerely yours,

William Ehlers
Chairman of the Committee on Sanitary
and Phytosanitary Measures
