

**COMMENTS ON BACKGROUND DOCUMENT G/SPS/GEN/640 "ISSUES
IN THE APPLICATION OF ARTICLE 6 OF THE AGREEMENT
ON THE APPLICATION OF SANITARY AND
PHYTOSANITARY MEASURES"**

Document Submitted Jointly by Argentina, Brazil, Colombia,
Ecuador, Paraguay and Uruguay

The following communication, received on 10 May, is being circulated at the request of the delegations of Argentina, Brazil, Colombia, Ecuador, Paraguay and Uruguay.

At the 35th regular meeting of the WTO Committee on Sanitary and Phytosanitary Measures (SPS Committee), document G/SPS/GEN/640 by the Secretariat of the SPS Committee on issues in the application of Article 6 of the SPS Agreement was the focal point of the discussions on regionalization. We commend the Secretariat of the Committee for drafting the document, and in particular, for taking the initiative to invite comments thereon in order to achieve further progress towards finding a solution for the effective implementation of Article 6.

In view of the concerns expressed by Members with respect to the effective implementation of the provisions of Article 6, particularly as regards undue delays in the procedures for the recognition of regionalization, the co-sponsors of this document decided, during the 34th meeting of the SPS Committee, to work together to produce a proposal containing suggested steps and time-frames for the procedures involved in recognizing pest- or disease-free areas or areas of low pest or disease prevalence.

Thus, with a view to operationalizing the provisions of Article 6 of the SPS Agreement, and bearing in mind the work we have been conducting in parallel, we would like to submit the following considerations exclusively with respect to Part IV of document G/SPS/GEN/640 in the hope that they will be reflected in the Committee's decision on procedures for the recognition of regionalization (what we would like to see deleted has been struck through, and what we have added is bold and underlined).

Our suggestions are motivated by the following concerns with respect to Part IV of document G/SPS/GEN/640:

- To avoid the linkage of prior recognition by international standardization organizations with bilateral recognition (paragraphs A 27 and B 28);
- to introduce a reasonable time-frame for fulfilling the various stages of the process and criteria for bilateral negotiations.

IV. TYPICAL STEPS FOR ADMINISTRATIVE PROCEDURES FOR RECOGNITION: SUMMARY OF PROPOSALS³¹

25. As previously noted, a number of Members have submitted proposals regarding the administrative process for recognizing pest- or disease-free status. Although these proposals vary in a number of requests, there are some common or recurrent elements. This section of the paper identifies these common elements.

26. The administrative process for achieving bilateral recognition is typically preceded by a country eradicating the disease or pest in question and obtaining a particular sanitary or phytosanitary status within part or all of its territory.

V. EXPORTING MEMBER REQUESTS ISSB RECOGNITION

~~27. Following this, a country may seek recognition of its status by the competent international organization. Upon obtaining the status of pest- or disease-free area or area of low prevalence, a Member officially declares this status (see step K for discussion of expedited procedure).~~

~~B. EXPORTING MEMBER REQUESTS BILATERAL RECOGNITION~~

~~28. Once achieved, the free status is communicated to relevant trading partners along with a formal request for recognition of this status, initiating the bilateral process of recognition.³² This request for the recognition of a pest- or disease-free area or an area of low pest or disease prevalence may be accompanied by science-based and technical information to support the exporting Members' objective demonstration of its sanitary or phytosanitary status, including reference to relevant international recognition of free status. Alternatively, the initial request could relate to requirements and procedure specific to the importing Member, and the technical information could be sent later (see step D).~~

A. REQUEST FOR REQUIREMENTS AND PROCEDURES FOR THE RECOGNITION OF PEST- OR DISEASE-FREE AREAS OR AREAS OF LOW PEST OR DISEASE PREVALENCE (ADMINISTRATIVE PROCEDURES OF THE EXPORTING MEMBER)

27. The following administrative procedures shall be observed during the first stage:

- (a) The exporting Member asks the importing Member to communicate the requirements and necessary stages for obtaining recognition of sanitary or phytosanitary status with respect to a given pest or disease and to provide the specific questionnaire for the evaluation of free areas;
- (b) the exporting Member specifies in its application the body and specialists designated to handle the procedures relating to its request.

B. IMPORTING MEMBER CLARIFIES REQUIREMENTS

28. At the request of the exporting Member, the importing Member explains the requirements and procedures for recognition of sanitary or phytosanitary status with respect to a given pest or disease

³¹ See in particular Argentina (G/SPS/GEN/606); Brazil (G/SPS/W/185); Chile (G/SPS/W/129, G/SPS/W/140/Rev.2 and G/SPS/W/144); Colombia (G/SPS/GEN/611); Mexico (G/SPS/GEN/388); Peru (G/SPS/W/148).

³² Chile (G/SPS/W/129).

and specifies the body or specialist designated to handle the procedures relating to the request of the exporting country. The importing Member, upon receiving this information, may request answers to a specific questionnaire.

C. EXPORTING MEMBER PROVIDES DOCUMENTATION

29. The exporting Member sends the technical file establishing compliance with the requirements laid down by the importing Member, accompanied by an official declaration from the national regulatory body attesting that the ecosystem is a pest- or disease-free area or an area of low pest or disease prevalence. Alternatively, the exporting Member provides supporting information showing that the procedures used to obtain recognition **of that area** are based on an international standard, guideline or recommendation established by competent bodies under the SPS Agreement. The exporting Member also supplies any further information that could help the importing Member to reach its decision on recognition, **even where there is already some sort of international recognition (bilateral, regional, etc).**

D. IMPORTING MEMBER EVALUATES DOCUMENTATION/ADDITIONAL INFORMATION

30. The importing Member provides feedback to the exporting Member regarding whether the documentation is in order. In addition, the importing Member can provide information regarding the necessity of additional information, the necessity of on-site auditing, and suggestion of dates for the on-site auditing. The importing Member may take into consideration whether the recognition has been accorded previously by an international body or by another Member when scheduling a technical inspection visit.

31. If the response from the importing Member is negative, the importing Member issues a decision rejecting the request and providing reasons. This allows the exporting Member to modify and adapt its system with a view to seeking recognition in the future.

32. If the response from the importing Member is positive, the importing Member indicates comments where they exist.

E. EXPORTING MEMBER RESPONDS TO COMMENTS

33. If the evaluation report contains comments, the exporting Member provides the relevant clarifications, additions or modifications.

F. IMPORTING MEMBER EVALUATES DOCUMENTATION

34. The importing Member provides feedback to the exporting Member regarding responses and indicates whether further clarification is necessary. If further clarification is needed the process repeats steps **E and F**.

G. IMPORTING MEMBER CONDUCTS ON-SITE EVALUATION

35. If necessary the importing Member carries out a visit in order to verify the information provided in support of the request for recognition of a pest- or disease-free area or area of low prevalence. This technical inspection could consider, *inter alia*, the administrative structure of the regulatory bodies and the programmes they implement with a view to prevention, control and eradication. The strength and credibility of the veterinary or phytosanitary infrastructure of the exporting region(s) would also be part of this evaluation.

36. The importing Member indicates comments relating to the inspection visit in an inspection report.

H. EXPORTING MEMBER RESPONDS TO INSPECTION REPORT

37. If the report of the visit contains comments, the exporting Member provides the relevant clarifications, additions or modifications.

I. IMPORTING MEMBER REJECTS OR AUTHORIZES

38. Where its evaluation and verification of the information provided by the exporting country leads to an unfavourable conclusion, the importing Member provides technical grounds for the decision, so that the exporting Member may modify and adapt its system with a view to future recognition requests.

39. Where its evaluation and verification of the information provided by the exporting country leads to a favourable conclusion, the importing Member launches its internal administrative procedures to eliminate the restrictions relating to the pest or disease associated with the recognition, to facilitate trade from the exporting Member that requested recognition. The importing Member modifies existing regulations or elaborates new ones to support official recognition of free status. In addition, the importing Member may circulate the modified or new regulation for public comment. The recognition of free status by the importing Member would not preclude the importing Member from taking emergency actions if the status of the exporting Member changes.

J. REPORTS AND NOTIFICATIONS WITH REGARD TO RECOGNITION PROCESSES

40. Members are asked to keep the Committee informed of applications for recognition of pest- or disease-free areas and the follow up thereof. When a Member has recognized a pest- or disease-free area, it shall so notify the Committee, supplying the evaluation questionnaire and the analysis criteria.

K. REFERENCE TIME-LIMITS

41. In order to ensure greater predictability of processes for the recognition of pest- or disease-free areas while limiting undue delays, the following reference time-limits are recommended:

- (a) For the importing Member to complete the stages under its responsibility (B, D, F, G and I – three years (36 months);
- (b) for the exporting Member to complete the stages under its responsibility (A, C, E and H) – one and half years (18 months).

L. BILATERAL NEGOTIATIONS

42. Where the Members concerned so agree, or in the situations described below, they may establish new reference time-limits different from those set forth above through bilateral negotiations, and may conclude a new work plan within a maximum period of 90 calendar days following the application:

- (a) When there is insufficient scientific knowledge of the epidemiology and control of the pest or disease;

- (b) when the importing Member has never recognized a free area or an area of low prevalence with respect to the pest or disease in question;
- (c) when the number of applications for recognition received by a Member exceeds that Member's analysis capacity with due regard for the country's level of development;
- (d) when there has been a significant change in the status of the pest or disease in the territories of the Members involved during the analysis period;
- (e) when the authorities responsible for the analyses have been mobilized for other emergency activities.

M. EXPEDITED PROCESS

43. An expedited process for recognition of sanitary status could be applied in the following situations:

- (a) When there has been official recognition following verification by one of the SPS Agreement's international reference organizations;
- (b) when there has been an outbreak in a previously recognized area which, once the problem was eliminated, was restored to its former status, **provided the eradication procedures comply with the relevant sanitary standard and the time-limits established therein are respected;**
- (c) when the infrastructure and operation of the responsible veterinary or phytosanitary service of the exporting Member are sufficiently familiar to the importing Member owing to sanitary or phytosanitary recognition with respect to other pests or diseases, or to existing trade relations.

44. **This process involves the bilaterally agreed exclusion of one or more stages described in section IV above, preferably stages A, B and C.**

45. **When there has been no previously notified occurrence of the pest or disease and the surveillance procedures and activities have shown the non existence thereof, the territory of the Member in question shall be considered free of that pest or disease.**
