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**Working Party on the
Accession of Ukraine**

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ACCESSION OF UKRAINE

Questions and Replies on Sanitary and Phytosanitary Measures (SPS)

The following submission, dated 27 March 2006, is being circulated at the request of the Delegation of Ukraine.

Question 1

Thank you providing information regarding the Harmonization Program for Ukraine.

We would like to comment and follow up on a few questions pertaining to this program and its function.

In WT/ACC/UKR/128, you note that "Codex does not have food standards for all food commodities. In the circumstance where there is no Codex standard, the mandatory requirements will prevail if it is reasonably equivalent to the requirements of other WTO member countries for the same product." The use of the word "reasonably" is inappropriate as it is not possible to define it in a manner suitable for the purposes of the SPS Agreement. Requirements will either be equivalent or not, and the equivalence should be determined by a transparent process that is available for public review and comment. Does the Ukraine have documentation available describing the Ukrainian process for determining equivalence?

Answer:

We confirm deleting the word "reasonably" from the SPS Harmonization Programme.

The process of comparing Ukraine food safety standards with Codex Alimentarius Standards was initiated in September 2005. Thus far, the Team established at the Institute of Toxicology and Eco-Hygiene has completed the following:

1. Procurement of the following documents and translation of most of them:
 - Codex Maximum Residue Levels for Pesticides;
 - Codex Guideline Levels for Methylmercury in Fish (CAC/GI 7-1991);
 - Codex Guideline Levels for Vinyl Chloride Monomer and Acrylonitrile in Food and Packaging Material (CAC/GL 6-1991);
 - Codex Maximum Level for cadmium in cereals, pulses and legumes (CAC/GL 39/2001);
 - Codex Maximum Levels for cadmium (CODEX STAN 248-2005);
 - Codex Maximum Level for patulin in apple juice and apple juice ingredients and other beverages (CODEX STAN 235-2003);
 - Codex Maximum Level for lead (CODEX STAN 230-2001, Rev. 1-2003);
 - Information on ADIs relative to pesticides residue (Report of the 1975 Joint FAO/WHO Meeting on Pesticide Residue, FAO Plant Production and Protection Series No.1);
 - Methods of Analyses of Pesticides Residue (Analysis of Pesticide Residues: Recommended Methods CODEX STAN 229-1993, Rev.1-2003);
 - Pesticide Analytical Manual, Food and Drug Administration, Washington, D.C., USA (3rd edition);
 - Chemistry Laboratory Guidebook, United States Department of Agriculture, Food Safety and Inspection Service, Science Program, Washington, D.C., USA;
 - General Methods of Analysis for Contaminants CODEX STAN 228-2001, Rev. 1 2004;
 - Recommended Methods of Analysis and Sampling CODEX STAN 234-1999;
 - Maximum Residue Limits for Veterinary Drugs in Food (CAC/MRL 2 REV. 2005) (Two tables: by commodities and by veterinary drugs);
 - Analysis of Pesticide Residues: Portion of Commodities to which CODEX MRLs Apply and which is Analyzed (CAC/GL 41 REV. 1993); and
 - Submission and evaluation of pesticide residue data for the estimation of maximum residue levels in food and feed (Manual Food and Agriculture Organization of the United Nations, Rome, 2002).

2. Comparison of Ukrainian mandatory food safety parameters for pesticides with Codex Maximum Residue Levels for Pesticides. Up to this date, about 70 per cent of all mandatory food safety parameters for pesticides have been compared.
3. Comparison of Ukrainian mandatory food safety parameters for mycotoxins with relevant Codex standard. Up to this date, about 90 per cent of all mandatory parameters for mycotoxins have been compared.

Comparative review of Ukrainian mandatory food safety parameters for food additives, flavourings, heavy metals, radionuclides, microbiological indicators, veterinary preparations, antibiotics and vitamins against the relevant Codex standards is expected to start in March 2006.

Ukraine expects to complete this comparative review during Summer 2006. Based on the results of this comparative review, Ukrainian food safety parameters which are the same as Codex Alimentarius will remain. A measure will be considered equivalent if it achieves the same level of human health protection.

For those which have higher protection than Codex, it will be decided then whether to replace them with Codex or undertake a risk assessment to justify. For those which exist in Ukraine but not in Codex, Ukraine will eliminate or undertake a risk assessment to justify. In both cases, Ukraine will allow a period for review and commenting in accordance with the new Law on Quality and Safety of Food Products which conforms to the WTO SPS Agreement requirements.

Question 2

We note that in the first phase, Ukraine plans to accept Codex standards on a provisional basis pending the outcome of their comparative review of national and Codex standards. When do you expect the program of comparative review for food safety requirements for all imported/exported food products for human consumption and food raw materials to be completed? Will Ukraine accept these standards upon their accession to the WTO? Will Ukraine also accept other international standards, guidelines, and recommendations (OIE, IPPC) upon accession to the WTO?

Answer:

The program of comparative review for food safety requirements for all imported/exported food products for human consumption and food raw materials is expected to be completed in Summer 2006.

Ukraine will accept by the date of accession the Codex Standards as well as OIE and IPPC standards, guidelines, and recommendations.

Question 3

Ukraine also notes that "Should the mandatory requirements provide a higher level of protection than those of other WTO countries, consideration will be given to revising these requirements or to perform a risk assessment to determine if scientific justification is supportive of the level of protection." Ukraine should either provide scientific justification for its measures in place or adopt the relevant international standards. Why is Ukraine only considering such actions? Ukraine should either revise the requirements to meet WTO obligations or undertake a risk assessment to justify the measure.

Answer:

Ukraine accepts to replace:

1. "Should the mandatory requirements provide a higher level of protection than those of other WTO countries, consideration will be given to revising these requirements or to perform a risk assessment to determine if scientific justification is supportive of the level of protection."

With:

2. "Should the mandatory requirements provide a higher level of protection than those of other WTO countries, Ukraine will revise these requirements to meet WTO obligations or undertake a risk assessment to justify the measure."

Question 4

We expect that all measures of the OIE, CODEX and IPPC would be provisionally implemented upon accession to the WTO. Currently, it is not explicit whether or not Ukraine can adopt all CODEX, OIE and IPPC standards, guidelines, and recommendations, per the WTO SPS agreement upon accession.

Answer:

Please see reply to previous questions.

Question 5

Under Item B, Animal Health, the document notes that "A thorough review of the measures governing the administration of control procedures and requirements for handling domestic and imported live animals and animal products has been prepared." Is this available for review? Are there going to be changes made to the administration of control procedures and requirements for handling domestic and imported live animals and animal products as a result of this review? Will those changes be notified and available for comment?

Answer:

Ukraine revised the import requirements for animals and animal products. Order of State Department of Veterinary Medicine No. 36 dated 25 April 2005 achieved greater compliance with animal health standards of the International Office of Epizootic (OIE) and the SPS Agreement. An English copy of this Order will be provided in English.

Ukraine plans to make further improvements to the administration and control procedures and requirements for handling domestic and import live animal and animal products in order to bring them into full conformity with the recommendations and guidelines of OIE. These draft changes, once prepared, will be notified and available for comments in accordance with the relevant provisions in the new law on veterinary medicine which are fully compliant with the WTO SPS Agreement.

Question 6

Can Ukraine provide more detail about the food safety requirements that will be harmonized throughout the three phases of the program? What standards are already equivalent to

international standards, guidelines, and recommendations or standards of other WTO members and which will need to be harmonized? Please be as specific as possible.

Answer:

Please see the reply to the first question above.
