

**Committee on Sanitary and Phytosanitary Measures**

**DECISION ON THE IMPLEMENTATION OF ARTICLE 4  
OF THE AGREEMENT ON THE APPLICATION OF SANITARY  
AND PHYTOSANITARY MEASURES**

Decision by the Committee

Addendum

At its meeting of 7-8 November 2002, the Committee agreed on the following clarifications with respect to paragraphs 5 and 6 of the Decision, as foreseen in the Programme for Further Work adopted by the Committee in March 2002 (G/SPS/20).

**Clarification relating to Paragraph 5**

1. The Committee agrees that historic trade provides an opportunity for an importing Member to become familiar with the infrastructure and measures of an exporting Member, and to develop confidence in the regulatory procedures of that Member. This information and experience, if directly relevant to the product and measure under consideration, should be taken into account in the recognition of equivalence of measures proposed by the exporting Member. In particular, information already available to the importing Member should not be sought again with respect to procedures to determine the equivalence of measures proposed by the exporting Member.
2. The Committee notes that the importance of this knowledge based on historic trade has been fully recognized in the draft FAO/WHO Joint Codex Alimentarius Commission Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems. The Committee further notes that the importance of such prior experience is also recognized in the draft paper of the Office International des Epizooties (OIE) on the Judgement of Equivalence of Sanitary Measures relating to International Trade in Animals and Animal Products. The Committee encourages that further elaboration of specific guidance by these organizations should ensure that such recognition is maintained.
3. The Committee draws the attention of the Interim Commission on Phytosanitary Measures (ICPM) to the Decision on Equivalence (G/SPS/19), and to the above clarification with respect to Paragraph 5 of the Decision. The Committee requests that the ICPM take into consideration the Decision and this clarification in its future work on judgement of equivalence with regard to sanitary measures to address plant pests and diseases.
4. The Committee agrees to continue consideration of suggestions for further clarification of Paragraph 5 of G/SPS/19.

**Clarification relating to Paragraph 6**

5. The Committee agrees that since a request for recognition of equivalence does not in itself alter the way in which trade is occurring, there is no justification for disruption or suspension of trade. If an importing Member were to disrupt or suspend trade solely because it had received a request for an equivalence determination, it would be in apparent violation of its obligations under the SPS Agreement (e.g. under Article 2).

6. At the same time, a request for recognition of equivalence does not impede the right of an importing Member to take any measure it may decide is necessary to achieve its appropriate level of protection, including in response to an emergency situation. However, if the decision to impose some additional control measure were to coincide with consideration by the same Member of a request for recognition of equivalence, this might lead an exporting Member whose trade is affected to suspect that the two events were linked. To avoid any misinterpretation of this kind, the Committee recommends that the importing Member should give an immediate and comprehensive explanation of the reasons for its action in restricting trade to any other Members affected, and that it should also follow the normal or emergency notification procedures established under the SPS Agreement.

7. The Committee notes that this issue has been addressed also in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems, and should encourage the maintenance of such a provision in the further elaboration of specific guidance by the Codex. The Committee draws the attention of the Office International des Epizooties (OIE) and the Interim Commission on Phytosanitary Measures (ICPM) to the above clarification with respect to Paragraph 6 of the Decision on Equivalence, and requests that the OIE and the ICPM take this clarification into consideration in their future work on equivalence with regard to sanitary or phytosanitary measures.

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