

**PARAGRAPH 5 OF THE DECISION ON EQUIVALENCE: GUIDANCE FOR  
ACCELERATED PROCEDURES FOR THE RECOGNITION OF EQUIVALENCE OF  
PRODUCTS HISTORICALLY TRADED**

Submission by Argentina

Addendum

**I. INTRODUCTION**

1. Paragraph 5 of the Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures (the "Decision on Equivalence", G/SPS/19) states that "The importing Member should accelerate its procedure for determining equivalence in respect of those products which it has historically imported from the exporting Member".

2. On 21 March 2002, the Committee on Sanitary and Phytosanitary Measures (SPS Committee) agreed on the Decision G/SPS/20, which establishes a work programme to further the implementation of Article 4, with particular consideration of the problems encountered by developing country Members. One of the commitments in the work programme for the first informal and regular meetings of in 2003 is that the Committee would, if possible, adopt the guidance for accelerated procedures for the recognition of equivalence of products historically traded.

3. On 7 October 2001, the WTO Secretariat circulated document G/SPS/W/121, which presented some considerations for further clarification of paragraph 5 of the Decision on Equivalence. Paragraph 8 of the document states that:

"In the discussions on Paragraph 5, a number of Members agreed that the existence of a trading relationship between two Members could facilitate the determination of equivalence of a new measure proposed by the exporting country primarily because of the existence of information, in several cases, regarding an exporting country's infrastructure and regulatory systems, and the historic contacts between the appropriate regulatory officials of an exporting and importing country. The extent to which the determination of equivalence could be accelerated depended on the specific nature of the measure being proposed as "equivalent" by the exporting Member, and the extent to which this measure differed from the measure which historically served as the basis for trade. The nature of the risk associated with the proposed new measure or the product could also be relevant, as suggested by Argentina".

4. The first recommendation included in paragraph 12 of the document is "... that the Committee agree 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".

5. The document remarked that the importance of this knowledge based on historic trade has been fully recognized in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems. It also noted the recognition in the OIE draft paper on the Judgement of Equivalence of Sanitary Measures relating to International Trade in Animals and Animal Products, and drew the attention of the Interim Commission on Phytosanitary Measures (ICPM) to its Decision on Equivalence, and to the above clarification with respect to paragraph 5 of the Decision.

6. In November 2002, the Committee adopted a Decision (G/SPS/19/Add.1) related to paragraph 5 of the Decision on Implementation of Article 4 of the SPS Agreement (G/SPS/19). In this Decision, Members agreed on the first recommendation stated in the Secretariat document G/SPS/W/121 and to continue consideration of suggestions for further clarification of paragraph 5 of G/SPS/19.

## **II. PROPOSAL ON GUIDELINES**

7. Considering paragraph 3.3. of the Decision on Implementation Related Issues and Concerns (WT/MIN(01)/17), Members recognize that:

- A significant improvement has been achieved in this field.
- Trade and development are directly related.
- Equivalence, in general, and the acceleration of the procedure in particular, should be an useful tool for developing countries in order to increase market access.
- The facilitation of the procedures of importation has a direct effect on costs, and consequently, on the possibility of being competitive in foreign markets.
- The importance to establish in the WTO the general guidelines needed to ensure that the process of determination of equivalence does not, in itself, become a disincentive to initiating the procedure.
- Having certainty about the steps and the time required, the exporting Member will be able to balance costs and benefits of initiating an equivalence determination procedure with the importing Member.
- Dialogue between the exporting and importing Members will assist the development of understanding and, desirably, agreement on the facilitation of the procedure.

8. The Committee agree on the following guidelines:

**Guidelines for Accelerated Procedures for the Recognition of Equivalence  
of Products Historically Traded**

Members agree as follows:

- (a) Importing Members shall consider the amount of information that the sanitary services have on the product for which recognition of equivalence is requested.
- The reference to "historically imported products" as a variable for the simplification of the procedure must be understood in the sense of amount of information, i.e., the knowledge and reliance that the importing sanitary service has of the exporting sanitary service.
- (i) Fast track procedure: there is enough information;
  - (ii) Simplified procedure: there is some information but it is insufficient;
  - (iii) Ordinary procedure: there is no information available.
- (b) Members shall consider the existence of information between sanitary services related to other products (different from the one for which equivalence is requested), when this information is useful.
- (c) Members shall consider the risk of the product, in order to reduce requirements and the number of steps in the procedures in cases of low risk.
- (d) Members shall not seek again information already available to the importing Member with respect to the determination of the equivalence of measures proposed by the exporting Member.
- (e) Using the Guidelines to Further The Practical Implementation of Article 5.5 (G/SPS/15) adopted by the Committee and an objective basis of comparison, the equivalence procedure shall concentrate on demonstrating that the measures the exporting Member proposes as equivalent have the same effect, relative to the achievement of the importing Member's appropriate level of protection (ALOP), as the corresponding sanitary measures applied by the importing Member. The existence of information shall be considered in order to simplify as much as possible this determination.
- (f) The importing Member shall, at the request of the exporting Member, specify as precisely as possible an objective basis for comparison of the sanitary measures proposed by the exporting Member and its own measures. Both Members should enter into a dialogue concerning this objective basis for comparison with a view to reaching agreement.
- (g) The importing Member shall estimate the steps that the demonstration mentioned in point (e) will require, and inform the exporting Member on an estimated time schedule for the determination of equivalence.

- (h) This schedule shall be agreed between exporting and importing Members, in order to give predictability and legal certainty to the process of determination of equivalence.
  - (i) When more than one agency is involved in the determination of equivalence of the sanitary or phytosanitary measures for a certain product, the requirements of all of these agencies must be taken into account and included in the steps and schedule mentioned in points (g) and (h).
  - (j) The international organizations recognized by the Agreement on the Application of Sanitary and Phytosanitary Measures (i.e., Codex Alimentarius Commission, OIE and IPPC) are encouraged to develop equivalence procedures for the benefit of all Members and especially developing Members. In doing so, and taking into account their recognition by the SPS Agreement, they shall observe the general guidelines set up by this Committee, keep it informed on the progress of their work and include in their work any further recommendations that this Committee may adopt.
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