

ANNEX XXI

PROCESS OF RECOGNITION OF EQUIVALENCE**1. Principles**

- (a) Equivalence can be determined for an individual measure, or a group of measures, or a system related to a certain commodity, or a category of commodities or all of them;
- (b) The examination by the importing Party of a request for recognition of equivalence of measures pertaining to a certain commodity of the exporting Party shall not be a reason to disrupt trade or suspend on-going imports from the exporting Party of the commodity in question;
- (c) The process of recognition of equivalence of measures is an interactive process between the exporting Party and the importing Party. The process consists of an objective demonstration of equivalence of individual measures by the exporting Party and an objective assessment of the equivalence with a view to the possible recognition of equivalence by the importing Party;
- (d) The final recognition of equivalence of the relevant measures of the exporting Party rests solely with the importing Party.

2. Preconditions

- (a) The process depends on the health or pest status, the law and the effectiveness of the inspection and control system related to the commodity in the exporting Party. To this end the law in the sector concerned shall be taken into account, as well as the structure of the competent authority of the exporting Party, the command chain, the authority, the operational procedures and resources, and the effectiveness of the competent authorities as regards inspection and control systems, including the level of enforcement related to the commodity and the regularity and the rapidity of information flow to the importing Party in case of identified hazards. This recognition may be supported by documentation, verification and documents, reports and information related to past experiences, assessment and verifications;
- (b) The Parties may initiate the process of recognition of equivalence pursuant to Article 183 of this Agreement after the successful completion of the regulatory approximation of a measure, a group of measures or a system included in the approximation list set out in Article 181(4) of this Agreement;
- (c) The exporting Party shall only initiate the process when no safeguard measures imposed by the importing Party apply to the exporting Party as regards the commodity.

3. The process

- (a) The exporting Party initiates the process by submitting to the importing Party a request for recognition of equivalence of an individual measure or groups of measures or a system for a commodity or a category of commodities in a sector or sub-sector or all of them;
- (b) When appropriate, this request includes also the request and the required documentation for approval by the importing Party on the basis of equivalence of any programme or plan of the exporting Party required by the importing Party and/or the status of approximation as laid down in Annex XXIV to this Agreement regarding the measures or systems described in point (a) of this paragraph as a condition for allowing import of that commodity or a category of commodities;
- (c) With this request, the exporting Party:
 - (i) explains the importance for trade of that commodity or a category of commodities;
 - (ii) identifies the individual measure(s) with which it can comply from all the measures expressed in the import conditions of the importing Party applicable to that commodity or a category of commodities;
 - (iii) identifies the individual measure(s) for which it seeks equivalence out of the total of the measures expressed in the import conditions of the importing Party, applicable to that commodity or a category of commodities;
- (d) In reply to this request the importing Party explains the overall and individual objective and the rationale behind its measure(s), including the identification of the risk;

- (e) With this explanation, the importing Party informs the exporting Party on the relationship of its domestic measures and the import conditions for that commodity;
 - (f) The exporting Party objectively demonstrates to the importing Party that the measures that it has identified are equivalent to the import conditions for that commodity or a category of commodities;
 - (g) The importing Party objectively assesses the demonstration of equivalence by the exporting Party;
 - (h) The importing Party concludes whether equivalence is achieved or not;
 - (i) The importing Party provides to the exporting Party full explanation and supporting data for its determination and decision if so required by the exporting Party;
4. Demonstration of equivalence of measures by the exporting party and assessment of this demonstration by the importing Party
- (a) The exporting Party shall objectively demonstrate equivalence for each of the identified measures of the importing Party expressed in its import conditions. When appropriate, equivalence shall objectively be demonstrated for any plan or program required by the importing Party as a condition to allow import (e.g. residue plan);
 - (b) Objective demonstration and assessment in this context should be based, as far as possible, on:
 - internationally recognised standards; and/or standards based on proper scientific evidence; and/or
 - risk assessment; and/or
 - documents, reports and information related to past experiences, assessments and verifications; and
 - legal status or level of administrative status of the measures; and
 - level of implementation and enforcement on the basis of in particular:
 - corresponding and relevant results of surveillance and monitoring programmes;
 - inspection results of the exporting Party;
 - results of analysis with recognised analysis methods;
 - verification and import check results by the importing Party;
 - the performance of the competent authorities of the exporting Party; and
 - earlier experiences.
5. Conclusions of the importing Party
- In case the importing Party arrives at a negative conclusion, it shall provide the exporting Party with a detailed and reasoned explanation.
6. For plants and plant products, equivalence concerning phytosanitary measures, shall be based on the conditions referred into Article 183(6) of this Agreement.
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