



**Committee on Sanitary and Phytosanitary Measures**

**ANNUAL REPORT ON THE PROCEDURE TO MONITOR THE PROCESS  
OF INTERNATIONAL HARMONIZATION**

**NOTE BY THE SECRETARIAT<sup>1</sup>**

**1 INTRODUCTION**

1.1. At its meeting of 15-16 October 1997, the SPS Committee adopted a provisional procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations, as provided for in Articles 3.5 and 12.4 of the SPS Agreement. The Committee extended the provisional monitoring procedure in 1999, 2001, and 2003, and revised the procedure in October 2004.<sup>2</sup> In 2006, the Committee agreed to extend the provisional procedure indefinitely, and to review its operation as an integral part of the periodic review of the operation and implementation of the Agreement under Article 12.7.<sup>3</sup> The procedure was reviewed as part of the Third Review of the Agreement<sup>4</sup>, and again in the context of the Fourth Review.<sup>5</sup>

1.2. The Committee has previously considered seventeen annual reports on the monitoring procedure.<sup>6</sup> These reports summarize several standards-related issues that the Committee has considered and the responses received from the relevant standard-setting organizations.

**2 PROPOSED REVISION TO THE MONITORING PROCEDURE (G/SPS/W/268)**

2.1. Since the Committee's consideration of the 2015 Annual Report<sup>7</sup>, there have been no proposed revisions to the monitoring procedure.

**3 NEW ISSUES**

3.1. Since the 2015 Annual Report, seven new issues have been raised under this procedure on: (i) the use of the Codex international standard on glyphosate; (ii) the lack of a Codex standard for imidacloprid in sesame; (iii) deviations from the use of international standards; (iv) BSE restrictions not consistent with the OIE International Standard; (v) phytosanitary certificate requirements for processed food products; (vi) measures on bovine semen and reproductive material more restrictive than the OIE Standard; and (vii) application of ISPM 13 on notifications of non-compliance.

**3.1 Use of the Codex international standard on glyphosate**

3.2. At the July 2015 meeting, the United States expressed concern that some Members had taken action, or were considering taking actions, to restrict the use of glyphosate, an active ingredient in many commonly used pesticides, due to a recent assessment from the WHO International Agency for Research on Cancer (IARC) declaring the compound "probably

<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the position of Members or to their rights and obligations under the WTO.

<sup>2</sup> G/SPS/14, G/SPS/17, G/SPS/25 and G/SPS/11/Rev.1.

<sup>3</sup> G/SPS/40.

<sup>4</sup> G/SPS/53.

<sup>5</sup> The draft report of the Fourth Review is contained in document G/SPS/W/280/Rev.2.

<sup>6</sup> These were circulated as G/SPS/13, G/SPS/16, G/SPS/18, G/SPS/21, G/SPS/28, G/SPS/31, G/SPS/37, G/SPS/42, G/SPS/45, G/SPS/49, G/SPS/51, G/SPS/54, G/SPS/56, G/SPS/59, G/SPS/60, G/SPS/GEN/1332 and G/SPS/GEN/1411.

<sup>7</sup> G/SPS/GEN/1411.

carcinogenic". It was important to note that IARC's findings were based on an assessment of hazard and not risk. The United States urged Members to base their SPS measures for glyphosate on the international standard provided by Codex, or on an assessment of the risk that includes realistic exposure scenarios and considers all available data.

3.3. Ukraine shared the US concern on the scientific justification of restricting glyphosate use.

3.4. Codex stated that at the last meeting of the Codex Committee on Pesticide Residues (CCPR), a delegate had questioned the lack of consistency between the IARC and Joint FAO/WHO Meeting on Pesticide Residues (JMPR) assessments of glyphosate. Codex emphasized that the roles of the bodies were different, as IARC focused on hazard characterization while JMPR performed risk assessments and exposure assessments for regulatory purposes.

3.5. At the October 2015 meeting, the United States reiterated its concern regarding restrictions on the use of glyphosate.

3.6. Brazil, Canada, China and Paraguay supported the United States' concern and stressed the importance of following the standard set out by Codex. They also recalled the differences in the mandates of IARC and of the Joint FAO/WHO Meeting on Pesticide Residues (JMPR) vis-à-vis hazard identification and risk assessment for regulatory purposes.

3.7. Codex informed the Committee that a WHO task force had reviewed the IARC report and had recommended that JMPR conduct a full re-evaluation of glyphosate under their field of competence, most likely by May 2016. Once the final evaluation was complete, it would go to the Codex Committee on Pesticide Residues (CCPR) for consideration. Codex also highlighted the importance of risk communication, as the mere establishment of a hazard should not mean that trade should be restricted.

### **3.2 Lack of a Codex standard for imidacloprid in sesame**

3.8. At the October 2015 meeting, Burkina Faso explained that a lack of a Codex standard for imidacloprid in sesame seed had caused barriers to trade by leaving it up to each country to define its own maximum residue level. Burkina Faso had received two official notifications that its exports of sesame to Japan had been intercepted. Japan had taken interest in the sesame problem and had granted technical assistance to set good crop practices and determine maximum sesame contamination by the pesticide and the waiting period. Burkina Faso noted the need for Codex to adopt a standard on sesame and establish MRLs for pesticides in view of increasing transparency.

3.9. Chile, Madagascar, Morocco, Nigeria, Paraguay and Senegal and supported Burkina Faso's statement. Noting the importance of sesame as an export commodity, Madagascar called on other partners and organizations to financially support Codex work on this issue so that an MRL for sesame could be established. Nigeria noted that its olive oil exports to the US had been returned due to detection of pesticides, for which MRLs had not been set by Codex. Senegal noted the difficulty in conducting risk assessments in the absence such standards. Paraguay encouraged Codex to start work on MRLs for sesame and chia and thanked Japan for providing technical assistance to overcome issues regarding MRLs in sesame.

3.10. Codex acknowledged that it had not set any MRLs for sesame seeds and recommended that the issue also be brought to the attention of CCPR and JNPR. This issue was a good example of the gaps in Codex standards that had been mentioned in earlier Committee discussions.

### **3.3 Deviations from the use of international standards**

3.11. Also in October 2015, Belize expressed its concern regarding Members' deviations from the use of international standards in the application of measures in international trade. In this regard, Belize asked whether this was a result of a gap in the international standard setting process, which in turn caused some countries to apply measures that were far more stringent than the recommendations set by Codex, the OIE and the IPPC. Members consistently applying measures that deviated from the recommendations called into question not only the efficacy of the international standard setting processes but even the relevance of the bodies recognised in the SPS Agreement. Belize noted that if the international standard setting process caused problems

that led to such deviations, this SPS Committee's agenda item was the most appropriate place to identify and discuss the issue.

3.12. Paraguay noted its agreement with Belize.

#### **3.4 BSE restrictions not consistent with the OIE International Standard**

3.13. During the March 2016 Committee meeting, the United States expressed concern that some Members maintained unjustified BSE restrictions that were inconsistent with the OIE international standards. The United States reiterated its commitment to aligning its import regulations governing BSE OIE guidelines and further highlighted that in 2013, the USDA APHIS had published a final rule in the Federal Register that ensured US BSE import regulations were aligned with international animal health standards that support safe trade in bovines and bovine products. This final rule became effective on 4 March 2014, and aligned US regulations with the OIE's criteria for classifying regions as negligible, controlled and undetermined risk for BSE. APHIS had also published a Notice in the Federal Register on 4 December 2015, advising the public of preliminary concurrence with the OIE's BSE negligible risk designations for sixteen regions, including India, Korea, and 14 European countries.

3.14. The United States highlighted its negligible risk BSE status, while noting the numerous unjustified restrictions it faced in its exports of live bovines, bovine meat and other products. The United States expressed its appreciation to several trade partners, including Peru and South Africa, who had recently lifted trade restrictions on these products and further requested all Members to remove any remaining BSE-related import prohibitions on bovines and bovine products of US-origin, in accordance with its OIE-recognized BSE negligible risk status. Moreover, the United States urged Members to recall that products such as protein-free tallow, and blood and blood products, which were deemed safe by the OIE regardless of a country's BSE risk status, should not be subject to BSE-related import restrictions.

#### **3.5 Phytosanitary certificate requirements for processed food products**

3.15. The United States also raised concerns regarding Members' use of phytosanitary certificate requirements for processed products, as set out in ISPM 32 on 'Categorization of Commodities according to their Pest Risk'. This standard categorized products into four categories, whereby category 1 products were defined as commodities having been processed to the point where they did not remain capable of being infested with quarantine pests. The United States explained that in such cases, no phytosanitary measures should be required and that such a commodity should not be deemed to require phytosanitary certification. The United States further noted that Annex 1 to ISPM 32 provided examples of processes and the resultant commodities that could meet the criteria for category 1, e.g. cooking, fermentation, etc. Furthermore, Appendix 2 provided some illustrative examples of commodities meeting the criteria for category 1, such as cotton lint, flour and industrial products made of cereal, potato starch and many more. The United States expressed its concern that some Members continued to require phytosanitary certification for products that had been sufficiently processed to mitigate any pest risk, and that this trend had been increasing rather than diminishing in recent years. The United States urged those Members to employ a risk-based approach and to act consistently with the guidance of ISPM 32, by not imposing any phytosanitary measures or requiring phytosanitary certification for such products.

3.16. Canada supported the concerns of the United States and encouraged Members to use international standards when establishing phytosanitary measures, and to support the principles set out in ISPM 32. Canada highlighted that this standard encouraged Members to take into account factors such as the level of processing of the products in considering their categorization. Canada further indicated its appreciation to the IPPC for hosting a training session on ISPM 32 in April 2016, prior to the 11th Session of the CPM.

3.17. The IPPC expressed its appreciation to the United States and Canada for raising the issue of ISPMs and urged Members to contact the IPPC should they have any queries related to IPPC standards or their interpretation. The IPPC also indicated its continuous efforts in capacity building activities to assist developing countries in implementing and adhering to these standards.

### **3.6 Measures on bovine semen and reproductive material more restrictive than the OIE Standard**

3.18. Argentina shared its concern regarding the FMD-related restrictions for bovine semen and bovine embryos implemented by several Members, which were more restrictive than the OIE recommendations. Argentina observed that these Members were applying measures which were not in accordance with several Articles of the OIE Terrestrial Code, such as Articles 8.8.15, 8.8.17 and 8.8.19. Argentina recalled the OIE's status as one of the international standard-setting bodies under the SPS Agreement, highlighting Members' obligations under Article 3 of the SPS Agreement. Argentina further emphasized the science-based nature of the SPS Agreement and underscored the principle of harmonization as a pillar which provides predictability in trade, while preserving the life and health of humans, animals and plants. Argentina urged Members to respect the international standards of the OIE and called for the removal of unjustified barriers to trade, particularly those applied to bovine semen and bovine embryos due to FMD.

### **3.7 Application of ISPM 13 on notifications of non-compliance**

3.19. Senegal raised concerns regarding the provisions contained in ISPM 13 on notifications of non-compliance, noting that non-conformity in relation to emergency actions was not well documented by Members. Senegal observed that ISPM 13 required the importing party to deliver a range of documentation, in the event of destruction, to the relevant competent authority. Senegal highlighted that this issue mainly concerned its exports of plant and fishery products to the Russian Federation and the European Union. Senegal requested the Russian Federation to review the requirements for notifying non-conformity and to further provide information in this regard.

3.20. Burkina Faso supported Senegal's concern with regard to the use of the guidelines for the notifications of non-compliance in emergency cases. Burkina Faso cited the example of the destruction of its mangos exported to the European Union and further requested information on the implementation of ISPM 13 in such cases, so as to understand the problems faced by economic operators.

## **4 PREVIOUS ISSUES**

4.1. Since the 2015 Annual Report, there was further discussion on one issue previously raised under this procedure regarding HPAI restrictions not consistent with the OIE international standard.

### **4.1 HPAI restrictions not consistent with the OIE international standard**

4.2. At the July 2015 meeting, the United States reminded Members about the OIE guidelines on imports of live poultry and poultry products (including heat-treated/cooked products) related to avian influenza, including highly pathogenic avian influenza (HPAI). The guidelines made clear that when HPAI was detected only in wild birds, OIE members should not impose bans on trade in poultry commodities. The guidelines also clearly established provisions for the recognition of zones or regions free of the disease. The affected country should define the control zones based on its response efforts, and the remainder of the country outside of those control zones could continue to be considered disease free. Additionally, poultry products (meat, liquid eggs, rendered meals, etc.) that had been heat-processed to destroy the HPAI virus in accordance with OIE guidelines were safe to trade irrespective of whether the products came from an area where HPAI had been detected. The United States called upon its trading partners to lift any import restrictions on live poultry and poultry products (including heat-treated products) that were not consistent with the OIE guidelines.

4.3. The European Union shared the US concern and urged the removal of import restrictions with relation to HPAI that were not in line with international standards. Canada noted that the OIE provided effective guidance on the principle of zoning and encouraged all Members to recognize zones established by affected Members, in accordance with this guidance.

## **5 RESPONSES RECEIVED FROM THE RELEVANT STANDARD-SETTING ORGANIZATIONS**

5.1. There have been no further responses received from the relevant standard-setting organizations since the last annual report.

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