



## NOTIFICATION PROCEDURES UNDER THE SPS COMMITTEE

### FIFTH REVIEW

#### *Submission from Brazil*

The following communication, received on 5 June 2018, is being circulated at the request of the Delegation of the Brazil.

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On the occasion of the Fifth Review of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) Brazil would like to share some suggestions for enhancing notification procedures under the SPS Agreement.

#### **1 BACKGROUND**

1.1. One of the cornerstones of WTO Agreements is transparency, which is based upon, among others factors, notification requirements. Notification provisions in the SPS Agreement ensure that basic factual information regarding each Member's intentions to regulate, as well as the possible trade implications of the new measures, are shared with Members, giving trading partners an opportunity to make comments at an early stage either bilaterally or at the SPS Committee.

1.2. The notification system in the SPS Committee is one of its most important functions, with thousands of notifications made in the last two decades. However, to reach its full potential of allowing countries to comment on notifications in a timely and efficient manner, it is necessary that Members fully comply with all notification conditions, starting with notifications being made under the adequate agreement.

1.3. It has been noticed that some of the measures currently being notified under the TBT Agreement could also fall under the purview of the SPS Agreement. As the SPS and TBT Agreements regulate similar areas, identifying the scope under which a specific measure falls is not always a clear-cut issue. Moreover, many measures have more than one objective and end up being subject to the disciplines of both agreements.

1.4. This document seeks to make a contribution to improve the notification system and initiate a discussion on where to notify measures not clearly fitting only one Committee. Brazil understands that notification practices under the SPS Agreement could be discussed in the current Review, as they are affecting Members' ability to react, comment, and adapt to new regulatory measures.

#### **2 JUSTIFICATION**

2.1. When a notification falls within the scope of the SPS Agreement, but is only notified under the TBT Agreement, Members' resources that process and distribute notifications expend valuable time analyzing and redirecting it to the bodies or persons responsible for that specific kind of measure. For instance, if a notification is about protection of animal health from risks arising from the entry of diseases, as stated in the SPS Agreement, even if related only to administrative procedures, it may not fall under the responsibility of TBT related agencies/entities in some

countries, but of SPS-related agencies/entities, which would only get acquainted with the notification at a later stage.

2.2. Considering that each country adopts a specific institutional framework for analyzing comments on SPS and TBT measures, and taking into account that time schedules for comments are usually short, Brazil is convinced that a discussion to address the adequate agreement under which a measure should be notified is necessary. To anchor this discussion, the specific proposal below is presented.

### **3 PROPOSAL**

3.1. Without prejudice to the rights and obligations of Members under other committees, and for the purpose of enhancing predictability and transparency in situations where a Member considers it is difficult to establish or foresee whether a draft technical regulation may fall under the SPS and/or the TBT Agreement, Brazil understands that Members should notify simultaneously the measure in both Committees in accordance with the recommended procedures for implementing the transparency obligations of the SPS Agreement set forth on G/SPS/7/Rev.4.

3.2. In line with the above, and taking into account the challenges arising from defining whether a measure falls within the scope of one or both agreements, Brazil proposes to further address this cross-cutting issue through thematic sessions and workshops, with a view to developing practical guidelines for notifications.

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