



11 September 2018

(18-5608)

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**Committee on Sanitary and Phytosanitary Measures**

Original: English

**FIFTH REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT ON THE  
APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES**

WORKSHOP ON EQUIVALENCE

*Submission from Canada*

*Revision*

The following communication, received on 10 September 2018, is being circulated at the request of the Delegation of Canada.

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**1 INTRODUCTION**

1.1. As part of the Fifth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures, pursuant to the provisions of Article 12.7 of the Agreement, the Secretariat has invited Members to identify issues they wish to be considered during the Review by 10 September 2018.

1.2. Canada respectfully submits a revised proposal, based on the discussion and interest at the July 2018 Committee meeting, for consideration by the Committee for a workshop or thematic session on equivalence under the Fifth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures.

1.3. Canada believes that all Members would benefit from a workshop or thematic session which examines the obligations in Article 4 of the SPS Agreement and the guidance provided in *Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures* (G/SPS/19/Rev.2).

1.4. Furthermore, G/SPS/19/Rev.2 invites the Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (OIE), the Commission on Phytosanitary Measures, to keep the Committee regularly informed regarding their activities relating to equivalence and indicates that Members should provide the Committee with information on their experience regarding the implementation of Article 4 of the Agreement.

1.5. As part of the workshop or thematic session on equivalence, Members and the International Standard-Setting Bodies (ISSBs) would be invited to share developments, guidance, and best practices for the acceptance and recognition of equivalence. Additionally, it is proposed that the Secretariat would review the obligations as they relate to equivalence under Article 4 of the SPS Agreement and the guidance provided in G/SPS/19/Rev.2, assess relevant WTO jurisprudence, and analyze the issues related to equivalence raised in WTO dispute settlement cases and the relevant findings.

1.6. Members have undertaken significant work on the issue of equivalence through the acceptance and recognition of equivalence. As part of the workshop or thematic session, Members would be invited to share their experiences, including their approach to assessing equivalence, the

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process of maintaining equivalence, and how historic knowledge of and confidence in another Member's competent authority can be considered in the recognition of equivalence.

1.7. Since the revision of G/SPS/19/Rev.2 in 2004, the ISSBs have advanced a significant amount of work in the area of equivalence resulting in the development of new guidance. During the workshop or thematic session, representatives from Codex, the International Plant Protection Convention (IPPC) and OIE, would be invited to discuss their relevant standards, guidelines, and recommendations, as well as the efforts they have or are currently undertaking to further develop guidance material, address gaps, and promote the understanding and use by Members of the guidance that is developed.

### 1.1 Codex

1.8. Since 1999, Codex has issued or updated a number of guidelines that relates or refers to equivalence, including *Guidelines for the Development of Equivalence Agreements Regarding Food Imports and Export Inspection and Certification Systems* (CAC/GL 34-1999), *Guidelines on the Judgement of Equivalence of Sanitary Measures associated with Food Inspection and Certification Systems* (CAC/GL 53-2003), *Principles and Guidelines for National Food Control Systems* (CAC/GL 82-2013), *Principles for Food Import and Export Inspection and Certification* (CAC/GL 20-1995), and *Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems* (CAC/GL 26-1997).

1.9. Additionally, in 2017, Codex approved new work to develop *Guidance on the Use of Systems Equivalence*, which is currently being prepared via electronic and physical working groups of the Codex Committee on Food Import and Export Inspection and Certification Systems.

### 1.2 IPPC

1.10. The IPPC developed the following standard relative to equivalence, ISPM 24 (2005) *Guidelines for the determination and recognition of equivalence of phytosanitary measures*.

1.11. The Implementation Review and Support System of the IPPC released *A Review of the Application of Equivalence Between Phytosanitary Measures Used to Manage Pest Risk in Trade* in 2016. This review analyses equivalence of phytosanitary measures, ISPM 24, and the implementation of phytosanitary equivalence by contracting parties. The review also identifies gaps in available information and challenges faced by implementing contracting parties.

### 1.3 OIE

1.12. The OIE's Terrestrial Animal Health Code and Aquatic Animal Health Code each contain a Chapter (5.3) on *OIE procedures relevant to the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organisation*. This chapter outlines the general considerations on the determination of the equivalence of sanitary measures, prerequisite considerations for the determination of equivalence, principles for determination of equivalence, and the sequence of steps to be taken in determination of equivalence.

## 2 PROPOSAL

2.1. Given the developments in this important area since 2004 by the ISSBs and Members, as well as the fact that a workshop or thematic session has, to Canada's recollection, never been held on the topic of equivalence, Canada would like to propose, for the Committee's consideration, a workshop or thematic session on equivalence as part of the Fifth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures.

2.2. This workshop or thematic session would provide Members an opportunity to expand their knowledge of the concept of equivalence. The following elements could be useful for Members to examine in detail: the equivalence obligations in the SPS Agreement; the guidance provided in *Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures* (G/SPS/19/Rev.2) the jurisprudence relating to Article 4 in decisions of the Dispute Settlement Body; the work of the ISSBs on developing international standards, guidelines and recommendations referring or relating to equivalence; Members' experience

implementing the concept of equivalence; as well as any best practices that can be shared concerning the implementation of the obligations, guidelines or recommendations on equivalence.

2.3. Canada has identified these topics of interest relating to equivalence for further discussion at a workshop or thematic session. Canada is open to including other topics of interest relating to equivalence as identified by other Members, such as systems approaches for achieving equivalence, for examination by the Committee as part of the workshop or thematic session.

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