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Committee on Sanitary and Phytosanitary Measures

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IMPLEMENTATION OF THE SPS AGREEMENT – REGIONALIZATION

FIFTH REVIEW

Submission from Brazil

The following communication, received on 14 September 2018, is being circulated at the request of the Delegation of Brazil.

On the occasion of the Fifth Review of the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures (SPS), Brazil presents to the Committee on Sanitary and Phytosanitary Measures the following matter for its consideration, recommendation and possible adoption.

1 REGIONALIZATION (ARTICLE 6)

1.1. Regionalization, as provided in Article 6 of the SPS Agreement, is one of the main instruments driving trade facilitation and promoting safe trade in agricultural products, enabling Members to tailor the implementation of measures to the specific sanitary and phytosanitary conditions and characteristics of their territory.

1.2. Indeed, the effective implementation of Article 6 and of the concepts presented in Annex A of the SPS Agreement are important tools for the promotion of the objectives of the SPS Agreement, including: (i) improving human health, animal health and phytosanitary situations; (ii) avoiding arbitrary or unjustifiable discrimination between Members where the same conditions prevail, or disguised restrictions on international trade; and (iii) providing technical assistance in sanitary and phytosanitary matters to developing country Members.

1.3. Nevertheless, the adaptation of SPS measures to regional conditions may be hindered if Members do not accept a pest or disease status recognized by the pertinent international organizations. In order to tackle these challenges, Members should aim for the harmonization of their regulatory framework and for the recognition, expeditiously and without undue delay, of a disease status granted by the OIE or of an area established in accordance with the standards of the IPPC. Recent jurisprudence on the issue recognizes the key role the Agreement attributes to international organizations on the matter.

1.4. Furthermore, Members face other difficulties for the effective adaptation of SPS regulations to regional status, which are related to several issues, including, but not limited, to: (i) the substantial investments needed to achieve and maintain the status of pest or disease free areas, or areas of low pest or disease prevalence (particularly for developing countries); (ii) the different requirements adopted by the competent international organizations (particularly OIE) and importing Members; and (iii) the lack of recognition by importing Members that specific areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence.

1.5. On account of some of these challenges, Members continue to raise trade concerns related to the application of these concepts. Temporary geographic prohibitions for SPS reasons and

geographical restrictions on eligibility are frequently the main motives behind the specific trade concerns discussed in the regular meetings of the Committee.

1.6. Recent work by the SPS Committee has highlighted some of these issues, such as the adoption, in May 2008, of the "Guidelines to further the practical implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary measures", document G/SPS/48. The document was formulated with a view to provide assistance to Members in the practical implementation of Article 6 by improving transparency, exchange of information, predictability, confidence and credibility between importing and exporting parties. Periodical revisions of the Guidelines were initially envisaged, but, as recalled by the European Union in document G/SPS/W/298, this work has not been undertaken since its initial adoption.

1.7. The significance of the work on regionalization carried out by Members and by relevant international organizations, since the adoption of the SPS Agreement and of the Guidelines, can be showcased by the successful eradication of rinderpest in 2011. Other advances in recognition of disease-free areas and areas of low disease prevalence worldwide are also constantly reported by Members during the sessions of the Committee.

1.8. Taking into consideration the importance of the implementation of Article 6 and the positive outcomes for the work of SPS agencies and for international trade stemming from the recognition of sanitary and phytosanitary status, as well as the important discussions carried out during the thematic session on regionalization held in July 2017, Brazil - in line with document G/SPS/W/303, presented by the United States, and G/SPS/W/298, presented by the European Union - understands that Members should strive to agree on actions and activities with an aim to facilitate the implementation of Article 6.

2 PROPOSAL

2.1. In order to develop and promote the implementation of provisions related to adaptation to regional conditions, including pest- or disease-free areas and areas of low pest or disease prevalence, Brazil proposes the following:

- (a) Members should reaffirm that regionalization, as a fundamental principle of the SPS Agreement, is an important and necessary tool for the protection of human, animal or plant life or health, while promoting and facilitating trade in agricultural and animal products;*
 - (b) Members should continue their commitment to share experiences and information on their internal regulatory systems with a view to improving the implementation of regionalization provisions;*
 - (c) The OIE and the IPPC are invited to share with the SPS Committee the outcome of their on-going work, experience and activities in relation to regionalization, recognition of pest-free-areas and trade facilitation; and*
 - (d) The Committee should examine the Guidelines on Article 6 (G/SPS/48) in order to assess their effectiveness and their implementation, as well as to streamline and improve the Guidelines, with a view to promote the recognition, expeditiously and without undue delay, of pest – or disease – free areas and areas of low pest or disease prevalence granted by the relevant international organizations.*
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