



Committee on Sanitary and Phytosanitary Measures

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

COMPILATION OF DRAFT RECOMMENDATIONS SUBMITTED BY MEMBERS FOR THE FIFTH REVIEW

Note by the Secretariat¹

Revision

The following draft recommendations for the Fifth Review Report, and other suggestions, have been compiled from the proposals submitted under the Fifth Review, and Members' written inputs in response to the Chairperson's request at the July 2019 SPS Committee meeting, the September 2019 consultations, and the November 2019 SPS Committee meeting.

This compilation is presented in two sections: (i) Section 1 - which presents the most recent recommendations/suggestions submitted by Members after the November 2019 SPS Committee meeting; and (ii) Section 2 - which presents the earlier recommendations/suggestions compiled from Members' proposals, and Members' written inputs after the July 2019 SPS Committee meeting and the September 2019 consultations. Within each section, the recommendations are ordered alphabetically by topic, similar to the format used in the revised draft Report of the Fifth Review ([G/SPS/W/313/Rev.1](#)).

Members had been invited to submit comments on the recommendations/suggestions in Section 1 of [G/SPS/W/318/Rev.2](#) by the deadline of Friday, 24 January 2020. Members are invited to provide further comments at the information consultations to be held on **Friday, 7 February 2020**.

A compilation of Members' initial comments on the draft Report of the Fifth Review is also available in [G/SPS/W/315/Rev.1](#).

SECTION 1 - RECOMMENDATIONS SUBMITTED AFTER THE NOVEMBER 2019 SPS COMMITTEE MEETING

The following recommendations/suggestions were submitted by Members after the November 2019 SPS Committee meeting.² These latest recommendations/suggestions and related comments are in response to the draft recommendations included in the revised draft Report of the Fifth Review [G/SPS/W/313/Rev.1](#). In addition, two Members (Japan and the United States) submitted comments on the previous version of this document (i.e. [G/SPS/W/318/Rev.2](#)) in January 2020; these have been reflected below.

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

² Members were invited to provide written inputs on the recommendations/suggestions by Friday, 29 November 2019. Following which, the Secretariat circulated a compilation of submitted comments in document [G/SPS/W/318/Rev.2](#). Members were further invited to provide any additional comments in writing by Friday, 24 January 2020.

1 APPROPRIATE LEVEL OF PROTECTION, RISK ASSESSMENT AND SCIENCE

1.1 Brazil and Canada

1.1. Recommendations/suggestions on appropriate level of protection, risk assessment and science:

- a. Members recognize the importance of ensuring that their respective sanitary and phytosanitary measures are based on scientific principles.
- b. Members recognize the importance of a key obligation of the SPS Agreement that Members base their measures on an assessment of risks to human, animal, or plant life or health that is appropriate to the circumstances and takes into account risk assessment techniques developed by relevant international organizations.

1.2 Canada

1.2. Recommendations/suggestions on appropriate level of protection, risk assessment and science:

- a. The Committee should hold a workshop in June 2020 on risk assessment, management, and communication.

1.3 United States

1.3. Comments in relation to the joint recommendations by Brazil and Canada on the appropriate level of protection, risk assessment and science in paragraphs 1.1a and 1.1b:

- a. As a general matter, Members are obligated to ensure these SPS Agreement requirements, like all others, are implemented in their national and regional systems. Thus, there should be no need to recognize these obligations in particular.
- b. While we fully agree on the importance of these provisions of the SPS Agreement to protecting health and to facilitating trade, we have concerns about selective recognition of particular SPS Agreement obligations. The selection of some obligations, but not others, raises questions about obligations that are not reaffirmed.
- c. Therefore, the United States questions the value of Committee recommendations in which Members' recognize these SPS obligations.
- d. The United States suggests:

The Committee encourages Members to review periodically the SPS measures implemented in their national and/or regional systems, and their risk assessment techniques, in light of developments in scientific evidence and updates issued by Codex, the OIE, or the IPPC, if any.

1.4. Comments in relation to the recommendation by Canada on the appropriate level of protection, risk assessment and science in paragraph 1.2a:

- a. The Committee has agreed to this proposal, so no need to include in the Report of the 5th Review.

1.5. Comments in relation to Brazil's recommendations/suggestions on appropriate level of protection, risk assessment and science in paragraph 9.1a (Section 2):

- a. As indicated in [JOB/SPS/2/Rev.4](#) and the comments in [G/SPS/GEN/1655](#), the United States does not support these recommendations as formulated here and refer to our proposed suggestions below in paragraph 1.6 as a potential way forward for the Committee.

1.6. Comments in relation to Canada's recommendations/suggestions on appropriate level of protection, risk assessment and science in paragraphs 9.2a and 9.2b (Section 2):

- a. The United States suggests an alternative formulation to paragraphs 9.2a and 9.2b:
 - i. The Committee should continue to discuss the topic of risk, including management of situations involving insufficient scientific information, and consider next steps for discussion.
 - ii. The Committee invites Members to share experiences and examples of national efforts to consider: (1) scientific uncertainty; and (2) availability of insufficient scientific evidence in risk analysis and the development and implementation of SPS measures.

2 CONTROL, INSPECTION AND APPROVAL PROCEDURES (ANNEX C)

2.1 Canada

2.1. Recommendations/suggestions on control, inspection and approval procedures:

- a. The Committee reaffirms the importance of Article 8 and Annex C on Control, Inspection and Approval Procedures.
- b. The Committee should continue discussions and information exchange on the topic of control, inspection and approval procedures, with an emphasis on approval procedures. To that end, the Committee will establish a formal SPS Committee agenda item on Annex C under the Operation and Implementation of the SPS Agreement agenda item to enable Members to share information on this topic.
- c. Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee shall create an electronic working group open to the participation of all Members and Observers to continue to examine the topic of approval procedures. The electronic working group, outlined in [G/SPS/W/321](#), will explore the:
 - i. Key challenges of approval procedures that impact international trade that Members should seek to address;
 - ii. Principles of approval procedures that facilitate international trade while meeting the importing Member's appropriate level of sanitary or phytosanitary protection;
 - iii. Available tools and best practices to enhance the implementation of the obligations of the SPS Agreement as they apply to approval procedures; and
 - iv. Possible future work of the Committee on this topic.

2.2 United States

2.2. Comments in relation to Canada's recommendation on control, inspection and approval procedures in paragraph 2.1a:

- a. Similar to the comment above (see paragraph 1.3), we question the value of this type of recommendation.

2.3. Comments in relation to Canada's recommendation on control, inspection and approval procedures in paragraph 2.1b:

- a. While the United States shares Canada's interest in focusing on approval procedures, if there is to be a standing agenda item, Members should be free to emphasize elements of interest to them:

"The Committee should continue discussions and information exchange on the topic of control, inspection and approval procedures, ~~with an emphasis on approval procedures~~. To that end, the Committee will establish a formal SPS Committee agenda item on Annex C under the Operation and Implementation of the SPS Agreement agenda item to enable Members to share information on this topic."

3 FALL ARMYWORM³

3.1 Brazil, Paraguay and the United States

3.1. Update of the recommendations/suggestions on fall armyworm contained in [G/SPS/W/305](#) and [G/SPS/W/317](#):

- a. To help mitigate the impact of pests and diseases on trade, Members should continue to exchange experiences on efficient, predictable and science-based regulatory approaches to SPS matters that increase access to tools, including by smallholder farm families, while safeguarding human, animal and plant health and life.
- b. Members are encouraged to consider, where appropriate and requested by another Member, providing technical assistance to support efforts by the other Member to improve its regulatory approach to pre-market approval and inspection systems, with the goal of, *inter alia*, enabling greater access to products that strengthen host plant resistance and support integrated pest management strategies.
- c. Members are encouraged to continue discussion of the concepts identified in [G/SPS/W/317](#) that aim to assist Members, particularly those with capacity constraints, to address SPS challenges, in the electronic working group established pursuant to the proposal by Canada [G/SPS/W/321](#).

4 NATIONAL SPS COORDINATION MECHANISMS

4.1 Indonesia

4.1. Indonesia places great importance on the establishment of national SPS committees as a coordination and consultation mechanism between relevant SPS and trade authorities in order to establish SPS positions and address trade concerns.

4.2. Indonesia is in the process of establishing a national SPS committee which consists of members from related ministries with the goal to coordinate national SPS measures.

4.2 United States

4.3. Recommendations/suggestions on national coordination mechanisms, building on the recommendations in the draft Report of the Fifth Review ([G/SPS/W/313/Rev.1](#)):

- a. Members are encouraged to implement appropriate national coordination mechanisms to enable consultation and communication between relevant technical and trade policy experts to enable the development of coordinated, science based SPS positions. Members are further encouraged to consider additional ways to strengthen internal coordination on SPS matters.
- b. Members should continue to share experiences on their national coordination mechanisms and discuss strategies and approaches to improve SPS coordination and engagement at the national level with the aim of strengthening implementation of the SPS Agreement and resolving SPS-specific trade concerns.

³ The SPS Committee held a Thematic Session on Fall Armyworm in February 2019, followed by the first meeting of the open-ended working group on fall armyworm.

- c. The Committee requests the Secretariat to prepare a collection of resources/~~good practices~~ that can be useful for Members in implementing their national coordination mechanisms, starting with those mentioned at the 2019 Workshop on Transparency and Coordination with particular attention to the concepts and questions outlined in [G/SPS/W/297](#), and including additional resources as suggested by Members.

5 NOTIFICATION PROCEDURES AND TRANSPARENCY

5.1 Brazil

5.1. Recommendations/suggestions on notification procedures and transparency:

- a. Whenever a measure notified to another WTO Committee has current or future implications for the implementation of the SPS Agreement, Members should also notify it to the SPS Committee [within X working days].

5.2 Indonesia

5.2. Indonesia shares the experience of the usefulness of ePing to speed up and accelerate Members' submission of comments on draft SPS measures. Currently, Indonesia has increased the number of officials registered on ePing (i.e. not only the National Enquiry Point/NEP officer, but all persons in charge in related SPS institutions). This means that the NEP has promoted broader access to ePing alerts among national stakeholders. Indonesia has now registered more than ten related institutions to receive information from ePing. Indonesia is willing to participate in training activities related to online platforms (e.g. ePing) to ensure notification compliance.

5.3 Japan

5.3. Comments in relation to Brazil's recommendation/suggestion on notification procedures and transparency in paragraph 5.1a:

- a. The comment period in accordance with paragraph 2.8 of [G/SPS/7/Rev.4](#) should be made to comply with at least 60 days, and the period from publication to enforcement for at least 6 months in general (paragraph 4.3 of [G/SPS/7/Rev.4](#)). Therefore, Japan would like to propose to add this phrase: "in accordance with relevant provisions of [G/SPS/7/Rev.4](#)":

"Whenever a measure notified to another WTO Committee has current or future implications for the implementation of the SPS Agreement, Members should also notify it to the SPS Committee in accordance with relevant provisions of [G/SPS/7/Rev.4](#) ~~{within X working days}~~."

5.4 United States

5.4. Comments in relation to Brazil's recommendation/suggestion on notification procedures and transparency in paragraph 5.1a:

- a. The United States notes that the formulation "has current or future implications for the implementation of the SPS Agreement" is significantly broader than what is stated in Annex B, paragraph 5. We do not support expanding the scope of the Agreement to cover measures that "has current or future implications" for SPS Agreement implementation. Members could have different interpretations of this and it would be very difficult to comply with.
- b. If this provision were to be reformulated in a manner consistent with the scope of Annex B of the SPS Agreement per our comment above, the United States could consider a formulation that calls for using the national coordinating mechanisms for measures that cover both TBT and SPS in their scopes.
- c. In this regard, we note the diversity of approaches across Members in their internal mechanisms for coordination of notification obligations across WTO Agreements.

- d. In recognition of this diversity, the United States suggests "...within a reasonable time-frame" or "in a timely manner". Rather than the more inflexible approach of a specific number of days, "within X working days", as proposed by Brazil.

6 PESTICIDE MRLS

6.1 United States

6.1. Update of the recommendations/suggestions on pesticide MRLs contained in [G/SPS/W/292/Rev.4](#)⁴ to be included in the Report of the Fifth Review:

- a. The Committee encourages Members to engage in national discussions of options that could enable a more productive Codex MRL system; and in particular, to discuss ways to achieve sustainable funding for the joint FAO/WHO scientific bodies. Such national discussions of options with respect to the MRL system would take place in the context of national resource availability, and could involve consideration of, *inter alia*, options for increasing support to JMPR, including increasing representative expert participation and other forms of support for the scientific bodies, and options for encouraging programmes to support submission of data from developing countries, especially on minor crops. The Committee invites regular updates from Codex on its progress in the evaluation of new compounds and of new uses for existing compounds, and on its progress in its periodic review of existing compounds.
- b. The Committee encourages Members to provide greater transparency and predictability worldwide on MRLs, by *inter alia*: (1) notifying all proposed changes to their MRLs, including changes to MRLs that are based on international standards; and (2) reviewing and improving their ability to take the comments of their trading partners meaningfully into account when considering proposed changes on MRLs.
- c. The Committee welcomes efforts by Members and the relevant observer organizations to provide regular updates to the Committee on their activities on MRLs, including updates on regional initiatives on MRLs. The Committee notes that such information could provide the basis for other Members to take up creative new MRL-related initiatives at the national and regional levels to improve harmonization to Codex MRLs, as well as to regional MRLs where relevant, in order to facilitate trade.
- d. The Committee invites Members, on a voluntary basis, to explore ways in which their domestic regulatory approaches to pesticide registration and use can impact – both negatively and positively – the incentives of the private sector to invest in registration and stewardship of lower-risk alternative pesticides in their countries. The Committee also invites Members to evaluate their own minor use needs and to collaborate in global data-generation activities.

7 REGIONALIZATION

7.1 Brazil

7.1. Recommendations/suggestions on regionalization:

- a. Members acknowledge that the work carried out by the OIE related to the official recognition of disease statuses of its member countries contributes to the strengthening of related disciplines of the SPS Agreement and to its implementation.

7.2 Brazil, the European Union and the United States

7.2. Recommendations/suggestions on regionalization:

⁴ Ministers of Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Guatemala, Japan, Kenya, Madagascar, Panama, Paraguay, Peru, Uganda, the United States and Uruguay signed a joint statement supporting the recommendations contained in this submission. See [WT/MIN\(17\)/52](#).

- a. The Committee recognizes the importance of regionalization to safe trade in agricultural products. We encourage Members to respond to requests from other Members concerning regionalization in a timely manner and to avoid unnecessary requests for information.
- b. Members are encouraged to use actively and systematically the Guidelines to Further the Practical Implementation of Article 6 ([G/SPS/48](#)), including the section on Expedited Process (Section IV).
- c. With a view to increasing transparency, Members are encouraged to share: their experiences in developing and strengthening their frameworks for regionalization; and information on their procedures and processes related to regionalization, including on how another Member may request recognition of pest- or disease-free areas.
- d. Under the Committee's agenda item for regionalization, Members are encouraged to share experiences on: securing another Member's recognition of regional conditions with respect to specific plant pests or animal diseases; and recognizing regional conditions of another Member with respect to specific plant pests or animal diseases.
- e. Members appreciate the information shared by OIE and IPPC on their activities in support of regionalization. Members welcome additional information on case studies, the Performance of Veterinary Services (PVS) Pathways, and Observatory projects, and on other activities aimed at improving understanding and implementation of OIE and IPPC standards.
- f. The Committee should further discuss the issues related to Article 6, including the Committee Guidelines, through future thematic sessions, informal meetings or working groups, as appropriate.

7.3 Japan

7.3. Comments in relation to Brazil's recommendation/suggestion on regionalization in paragraph 7.1a:

- a. Japan understands that Brazil's proposal for the official recognition of disease statuses by the OIE has been withdrawn by Brazil, has not been discussed among WTO members, and has not reached consensus. Japan would like to submit the amendment to add the phrase "and IPPC", because both the OIE Code and ISPM are important:

~~"Members acknowledge that the work carried out by the OIE and IPPC related to the official recognition of disease statuses of its member countries contributes to the strengthening of related disciplines of the SPS Agreement and to its implementation."~~

7.4 United States

7.4. Comments in relation to Brazil's recommendation/suggestion on regionalization in paragraph 7.1a:

- a. As currently constructed, this recommendation could be construed to imply that OIE would contribute to a legal interpretation of the SPS Agreement. We do not support such an implication.
- b. We believe the recommendations as put forward by Brazil, the European Union and the United States in section 7.2 are sufficient and reflect the discussions in the Committee.
- c. If Brazil wants to pursue an additional recommendation on regionalization, we suggest formulating the recommendation taking into consideration the following elements:
 - Would a recognition by "the Committee" be preferable?

- Would it be useful to recognize that the OIE's work to provide expertise in the control of animal diseases to Members and to improve the legal framework, competency and resources of national veterinary services contributes to Members' ability to enhance implementation of the SPS Agreement?
 - Also, would there be a parallel construction for the IPPC? Seems better to include the contribution of both ISSB's work to implementation of the SPS Agreement.
- d. However, we believe that the recommendation in paragraph 7.2e addresses these elements.

7.5. Comments in relation to the joint recommendations/suggestions by Brazil, the European Union and the United States on regionalization in paragraph 7.2f:

- a. Delete "the" from the sentence as indicated below. Otherwise it appears to suggest only a subset of issues:

"The Committee should further discuss ~~the~~ issues related to Article 6, including the Committee Guidelines, through future thematic sessions, informal meetings or working groups, as appropriate."

8 GENERAL COMMENTS

8.1 United States

8.1. The United States notes that some proposals set "the Committee" as the noun, and some set "Members" as the noun - e.g. as the subject of the verb or action being recommended. It would be useful to come to a shared understanding of when one formulation is preferred to the other. We should also consider consistency in approaches taken in prior reviews, where appropriate.

SECTION 2 - RECOMMENDATIONS SUBMITTED AFTER THE JULY 2019 SPS COMMITTEE MEETING

The following recommendations/suggestions were compiled from the proposals submitted under the Fifth Review, and Members' written inputs in response to the Chairperson's request at the July 2019 SPS Committee meeting and the September 2019 consultations.⁵ These recommendations/suggestions were taken into account in the drafting of the revised draft report ([G/SPS/W/313/Rev.1](#)) circulated on 21 October 2019.

These recommendations should be read in conjunction with the summary of the informal SPS Committee meetings on the Fifth Review ([JOB/SPS/2/Rev.4](#)), which summarize Members' reactions to submitted proposals.

In some cases, the recommendations were slightly edited in order to provide additional context contained in other sections of the submitted proposals.

9 APPROPRIATE LEVEL OF PROTECTION, RISK ASSESSMENT AND SCIENCE

9.1 Brazil

9.1. Recommendations/suggestions as contained in [G/SPS/W/308](#):

- a. In order to develop and promote the adoption of science-based procedures for the implementation of the SPS Agreement, Brazil proposes the following:

⁵ Members were invited to review the recommendations and provide comments at the informal consultations on 25 September 2019, and/or in writing to the Secretariat (SPSCommittee@wto.org) by 4 October 2019. This deadline was subsequently extended to 10 October 2019.

- i. Members should be urged to recognize that the risk assessment, as regulated under Article 5.1, is the main criteria and means by which scientific justification is attained for the adoption and implementation of SPS measures.
- ii. Members should – when making notifications of corresponding provisional measures - specify that they are taken under Article 5.7, stating their views on the insufficiency of scientific evidence in relation to the issue that gave origin to the measure and that the Member has sought and will continuously seek additional information in order to review the measure accordingly and within a reasonable period of time.
- iii. The Committee should ask Codex Alimentarius, as well as other relevant international organizations, to work on the procedural steps necessary, given the impossibility of establishing a proper risk assessment, for the adoption and application of provisional measures.

9.2 Canada

9.2. Recommendations/suggestions on ALOP, risk assessment and science:

- a. The International Standard Setting Bodies are invited to inform the Committee of their standards, guidelines, and recommendation or other relevant documents that they have developed regarding the consideration of insufficient scientific evidence.
- b. The Committee should continue to discuss the topic of risk and consider next steps for discussion based on the information provided by the ISSBs.

9.3 Ecuador

9.3. Ecuador supports the views expressed by Brazil in document [G/SPS/W/308](#). It is vital that Members uphold the notion that risk assessment is fundamental for the implementation of SPS measures and that such measures must be science-based in order to mitigate identified risks without creating unnecessary barriers to trade. Ecuador is willing to continue to engage in dialogue on this matter with a view to ensuring that decisions are made on the basis of scientific evidence and existing international parameters.

9.4 Turkey

9.4. Regarding Brazil's proposal ([G/SPS/W/308](#)) on risk assessment and appropriate level of protection, Turkey considers Article 5 - Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection of the SPS Agreement to be quite clear and enough. Therefore, Turkey does not see any need to urge countries to recognize the same objectives given there and adding a requirement to notifications given under paragraph 2.1(b) of Brazil's proposal which will create an additional burden in terms of both administrative work and time.

10 CONTROL, INSPECTION AND APPROVAL PROCEDURES (ANNEX C)

10.1 Canada

10.1. Recommendation/suggestion on approval procedures as contained in [G/SPS/W/310](#):

- a. Canada proposes that a thematic session on approval procedures be held in November 2019 as part of the Fifth Review of the Operation and Implementation of the Agreement on the Application of SPS Measures. As part of a thematic session on approval procedures, Members, International Standard Setting Bodies (ISSBs) and other organizations that have valuable perspectives in this area could be invited to share experiences, best practices, developments as well as relevant standards, guidelines and recommendations of ongoing or potential work relevant to approval procedures.⁶

⁶ A Thematic Session on Approval Procedures will be held on 5 November 2019. In addition, a Workshop on Control, Inspection and Approval Procedures was held in July 2018.

10.2 Turkey

10.2. Turkey would like to express its willingness to share its experiences on the subject.

11 EQUIVALENCE⁷

11.1 Australia

11.1. Recommendations/suggestions on equivalence as contained in [G/SPS/W/299](#):

- a. Within the framework of the Fifth Review, the SPS Committee would explore the impediments to the application of the concept and practices of equivalence to manage SPS risks in trade. Where it would assist Members to expand their use of equivalence to facilitate safe trade, the SPS Committee could expand on existing guidance on recognition of equivalence in relation to systems approaches for achieving equivalence in achieving the importing Members' appropriate level of protection of plant, animal and human health while permitting trade to begin, continue or resume.
- b. The Review would expand on guidance provided to Members in the Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures specifically in relation to the determination of equivalence of a systems approach.⁸
- c. The Review would draw on existing and ongoing work of the ISSBs, in relation to systems approaches that may be used in determining if a systems approach could be considered as equivalent to existing measures and achieve the importing Member's appropriate level of protection.

11.2 Brazil

11.2. Recommendations/suggestions on equivalence as contained in [G/SPS/W/301](#):

- a. To improve the implementation of Article 4, Members should recognize the importance of the Decision ([G/SPS/19/Rev.2](#)), commit to follow its provisions and reinforce the commitment of their countries to enter into consultations when requested, following Article 4.2 and the procedures described in the Decision itself.

11.3 Canada

11.3. Recommendations/suggestions on equivalence as contained in [G/SPS/W/302/Rev.1](#):

- a. 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.

11.4. Recommendations/suggestions on equivalence proposed in the July 2019 informal SPS Committee meeting:

- a. The Committee should continue discussions and information exchange on the topic of equivalence through the existing agenda item and in-depth discussion during future thematic sessions, informal meetings, and working groups as appropriate.
- b. Members are encouraged to coordinate with their Codex, OIE, and IPPC representatives and experts to highlight the importance of understanding trade impacts during the development and discussions of international standards, guidelines, and recommendations on the issue of equivalence.

⁷ The SPS Committee held a two-part Thematic Session on Equivalence in October 2018 and February 2019.

⁸ Australia subsequently noted that while there might still be a need to review the existing guidance, especially in relation to systems approaches, it also recognized that Members did not have an appetite to do so (paragraph 1.3(o) of [JOB/SPS/2/Rev.3](#)).

11.4 Ecuador

11.5. For Ecuador, enhancing dialogue on the principle of equivalence is essential given that these issues are of interest when conducting trade negotiations. In this respect, it should be noted that Ecuador has aligned itself with the international practices established in the Codex and will continue its efforts in this area.

12 FALL ARMYWORM⁹

12.1 Brazil, Kenya, Madagascar, Paraguay, the United States and Uruguay

12.1. Recommendations/suggestions on fall armyworm as contained in [G/SPS/W/305](#):

- a. We recommend that interested Members of the Committee form a working group for the purpose of undertaking the activities outlined in sections 5 and 6 of this paper. The working group could, at an appropriate time, provide a report on its activities to the Committee.
 - i. We recommend that the working group examine, identify, and discuss examples of the effective use by Members of these principles to enable greater access to safe tools and technologies to manage FAW in Africa. The working group could also determine if any of these principles have not been employed in the FAW context as well as the reasons why, and how the principle could be relevant in the future.
 - ii. We recommend that the working group collect and compile information and experiences resulting from collaboration in these areas. The compilation could serve as a resource for national and regional authorities with capacity or expertise constraints in the development of their own systems and strategies. The compilation would obviously not affect Members' rights and obligations under the SPS Agreement.
 - iii. Brazil, Kenya, Madagascar, Paraguay, the United States and Uruguay believe there is a compelling need to enable greater access to safe tools and technologies in the quest for safer and more sustainable agriculture and to prevent food insecurity. We recommend that interested Members of the Committee form a working group to develop these documents outlined in sections 5 and 6 of this paper for consideration by the Committee under the Fifth Review.

12.2 Brazil, Kenya, Paraguay and the United States

12.2. Recommendations/suggestions as contained in [G/SPS/W/317](#):

- a. Brazil, Kenya, Paraguay and the United States propose that the concepts identified below could productively be a subject of further Committee discussion in connection with FAW and could be assembled into a Committee document, connected to the Fifth Review, on approaches to streamline regulatory processes with respect to FAW. We recognize these concepts can be helpful in addressing other SPS challenges as well, particularly for authorities facing capacity constraints. Such a document could assist Members in strengthening implementation of Article 9 of the SPS Agreement.
 - i. The concepts are: (i) data portability; (ii) common application dossiers; (iii) joint risk assessments; (iv) adaptation to regional conditions; (v) unilateral recognition; (vi) mutual recognition; (vii) familiarity; (viii) history of safe use; (ix) equivalence; (x) harmonization; and (xi) emergency use authorization.

12.3 India

12.3. The following are India's comments on the draft recommendations/suggestions in document [G/SPS/W/318](#) regarding paragraphs 4.1 and 4.2 about fall armyworm (FAW):

⁹ The SPS Committee held a Thematic Session on Fall Armyworm in February 2019, followed by the first meeting of the open-ended working group on fall armyworm.

- a. We recognize the importance of devising ways and means to tackle fall armyworm (FAW). We are also committed to building stakeholder's capacities through mutual cooperation and support. However, we feel that further deliberations are required to obtain clarity on some of the concepts being proposed in paragraphs 4.1 and 4.2. We note that market access to products, tools, and technologies will be governed by regulations and laws in force in each Member's territory. We request the proponents to elaborate upon the following:
- i. Are the concepts being proposed to address the SPS challenges relating to FAW voluntary in nature or are they to be adhered to in a prescriptive manner?
 - ii. Is the list of concepts exhaustive or is it merely an indicative/inclusive one?
 - iii. With respect to the following:
 - 1) Data portability;
 - 2) Common application dossiers;
 - 3) Joint risk assessments;
 - 4) Familiarity
 - 5) History of safe use; and
 - 6) Emergency use authorization.

What is the legal basis for these concepts under the SPS Agreement? Do the concepts adhere to the requirements specified under the SPS Agreement or are some of them SPS-plus?

13 NATIONAL SPS COORDINATION MECHANISMS

13.1 Benin, Burkina Faso, Burundi, The Gambia, Ghana, Kenya, Madagascar, Morocco, Nigeria, the United States and Zambia

13.1. Recommendations/suggestions on national SPS committees as contained in [G/SPS/W/297](#):

- a. We propose that the SPS Committee examine the following matters, as well as others of interest to Members, through an exchange of experiences in a thematic session or workshop to be held in late 2018 or early 2019:¹⁰
 - i. The mechanism for establishment and composition of national SPS committees;
 - ii. The role of the private sector in advising or providing input to national SPS committees;
 - iii. The procedures for developing national SPS strategies and positions in regional and international organizations;
 - iv. Use of established information exchange mechanisms; and
 - v. Role of national SPS committees in advocacy.
- b. Following the Committee's examination of these matters, we would welcome other Members' views as to whether a "good practices" document would be useful to Members. In our view, a collection of good practices could assist developing countries, recently acceded Members and countries seeking to accede to the WTO. We are interested in others' views.

13.2 Canada

13.2. Recommendation/suggestion on national SPS coordination mechanisms:

¹⁰ A joint Workshop on Transparency and Coordination was held on 15-16 July 2019.

- a. Members are encouraged to implement appropriate national coordination mechanisms to enable consultation and communication between relevant technical and trade policy experts to enable the development of coordinated SPS positions.

14 NOTIFICATION PROCEDURES AND TRANSPARENCY

14.1 Brazil

14.1. Recommendations/suggestions on notification procedures and transparency as contained in [G/SPS/W/300](#):

- a. 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](#).
- b. 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.¹¹

14.2 Canada

14.2. Recommendations/suggestions on notification procedures/transparency:

- a. Members are encouraged to clearly indicate in their SPS Committee notification when a measure has been notified to another Committee.
- b. The Secretariat is requested to update the SPS notification templates to include a new section 'related notifications'. The 'related notifications' section would be completed by Members when a SPS measure is notified to other Committees or when there are other related notifications.

14.3 Ecuador

14.3. In this regard, it should be emphasized that the ePing system has been extremely useful for the internal analysis of draft regulations and for sending comments. Ecuador is constantly analysing notifications received via the ePing platform, thanks to the coordinated efforts of the Permanent Mission to the WTO, the Ministry of Production, Foreign Trade, Investment and Fisheries, and agencies directly involved in the application of sanitary and phytosanitary measures.

14.4. Nevertheless, Ecuador considers it important to point out that even though Members submit notifications in the official WTO languages (English, Spanish or French), the notified regulations themselves are often drafted in the language of the notifying country, which makes it difficult to properly understand not only their scope but their potential impact on Ecuador's exportable supply. We therefore suggest looking at ways of facilitating access to English, Spanish or French translations of notified regulations.

¹¹ A joint Workshop on Transparency and Coordination was held on 15-16 July 2019.

15 PESTICIDE MRLS

15.1 Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Japan, Kenya, Madagascar, New Zealand, Panama, Paraguay, Peru, Uganda, the United States and Uruguay

15.1. Recommendations/suggestions on pesticide MRLs as contained in [G/SPS/W/292/Rev.4](#):¹²

- a. We believe the Committee should encourage Members, as a matter of some urgency, to approach their Codex representatives to highlight the trade issues raised during discussions on MRLs at the SPS Committee and to participate actively in their inter-ministerial discussions on MRL issues. Members should encourage national discussions of options that could enable a more productive Codex MRL system; and in particular, to hasten discussions on ways to achieve sustainable funding for the scientific bodies. Such discussions would take place in the context of national resource availability, and could include, *inter alia*, options for increasing support to JMPR, increasing representative expert participation and other forms of support for the scientific bodies as well as encouraging programmes to support submission of data from developing countries especially on minor crops. The Committee should also invite regular updates from Codex on its progress in the evaluation of new compounds and new uses.
- b. We believe the SPS Committee should consider ways for WTO Members to provide greater transparency and predictability worldwide on MRLs by urging Members to: (1) notify all proposed changes to their MRLs, including changes to MRLs that are based on international standards; and (2) review and improve their ability to take the comments of their trading partners meaningfully into account when considering proposed changes on MRLs.
- c. We believe the Committee should welcome efforts by Members of these regional initiatives and the relevant observer organizations to provide regular updates to the Committee on their harmonization and other collaborative activities on MRLs. Such information could provide the basis for other Members to take up creative new MRL-related initiatives at the national and regional levels to improve harmonization to Codex MRLs as well as to regional MRLs where relevant, in order to facilitate trade.
- d. We believe the SPS Committee should invite Members, on a voluntary basis, to explore ways in which their domestic regulatory approaches to pesticide registration and use can impact – both negatively and positively – the incentives of the private sector to invest in registration and stewardship of lower-risk alternative pesticides in their countries. The SPS Committee should also invite Members to evaluate their own minor use needs and to collaborate in global data generation activities.
- e. We recommend the Committee include all of the recommendations put forward in this paper in its Report of the Fifth Review of the Operation and Implementation of the SPS Agreement.

15.2 Ecuador

15.2. Ecuador supports the recommendations set out in document [G/SPS/W/292/Rev.4](#). The work of the JMPR needs to be strengthened in order to ensure a timely response to issues that arise regarding the setting of MRLs. In Ecuador's view, it is vital that all Members be aligned with the principles established in the SPS Agreement and base their measures on the international decisions on pesticide MRLs adopted by the Codex Committee on Pesticide Residues.

15.3 Turkey

15.3. It is considered that the countries setting more restrictive measures on MRLs than the international standards should share their risk assessments, on which these more restrictive

¹² Ministers of Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Guatemala, Japan, Kenya, Madagascar, Panama, Paraguay, Peru, Uganda, the United States and Uruguay signed a joint statement supporting the recommendations contained in this submission. See [WT/MIN\(17\)/52](#).

measures are based, with the international standard-setting organizations. Hence, a common ground would be established to facilitate risk assessment procedures.

16 REGIONALIZATION

16.1. Recommendations/suggestions on regionalization were submitted in earlier proposals by Brazil ([G/SPS/W/307](#)), the European Union ([G/SPS/W/298](#)) and the United States ([G/SPS/W/303](#)). However, these proponents subsequently submitted a joint paper ([G/SPS/W/311](#)) in order to gather responses from Members, as well as IPPC and OIE, on a set of questions to inform further discussions on the topic.

16.1 Turkey

16.2. Regarding recognition of regionalization and pest and disease-free zones, recommendations of international organizations and the requirements of exporting country could be different. In addition, importing countries sometimes require implementation of their own procedures on recognition of pest and disease-free zones although they are defined in accordance with the international standards and notified to trading partner countries through SPS notifications.

16.3. Turkey has completed its regionalization studies for its zones free of avian influenza in line with OIE recommendations, and has published a self-declaration of freedom from the disease through OIE and SPS notifications. However, Turkey still faces some problems regarding recognition of its free status of avian influenza with countries.

16.4. Besides, some exporting countries do not recognize the disease-free status of regions or zones within a country and request disease-free status of the entire country.

16.5. In this respect, Turkey welcomes the proposal to review the Committee's Guidelines on implementation of Article 6 with the contributions of the international organizations, such as OIE and IPPC, as well as organizing trainings with regards to related subjects.

16.6. It is beneficial to encourage countries to announce their regionalization efforts related to animal diseases, which may affect trade during peace time. This can be done through SPS notifications, in addition to self-declarations to OIE, as well as by identifying regions to impose import restrictions which therefore does not affect the whole country, in case of an outbreak.

17 ROLE OF CODEX, IPPC AND OIE IN ADDRESSING SPECIFIC TRADE CONCERNS

17.1 South Africa

17.1. Recommendations/suggestions on the role of Codex, IPPC and OIE as contained in [G/SPS/W/304/Add.1](#).

- a. South Africa would like to propose that the Secretariat write to the ISSBs requesting them to implement recommendation 8 of the workshop:¹³
 - i. To analyse the STCs and to identify those which could have been addressed by the use of existing international standards. The relevant Sister Organization will then submit a report to the Secretariat;
 - ii. Upon receipt of this report from each of the three Sisters, it is proposed that the Secretariat share the report with the Committee and organize a workshop wherein each of the three Sisters will share its analysis of the identified STC(s).

¹³ Recommendation 8 of the 2009 workshop: Requesting the three Sisters to analyse the current specific trade concerns raised in the SPS Committee to see which of these could have been addressed by the use of the existing international standards (Report of the 2009 workshop, [G/SPS/R/57](#)).

17.2 Codex, IPPC and OIE

17.2. Recommendation/suggestion as contained in [G/SPS/W/314](#):

- a. Members are encouraged to develop their understanding of the various standards adopted by Codex, IPPC and OIE in order to facilitate their implementation.

18 THIRD PARTY ASSURANCE SCHEMES

18.1 Belize

18.1. Recommendation/suggestion on voluntary third-party assurance schemes as contained in [G/SPS/W/316](#):¹⁴

- a. "In view of the ongoing work being undertaken by CCFICS on the use of voluntary third-party assurance to inform national food control system planning, and the current pilot projects that will be undertaken in Belize, Honduras, Mali, Senegal and Uganda, the Committee should hold a thematic session on voluntary third-party assurance programmes."
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¹⁴ The recommendation in the original proposal referred to "a thematic session or workshop", however in the July 2019 SPS Committee meeting, Belize informed the Committee that the four areas indicated in its proposal would be best covered in a one-day thematic session, as opposed to a two-day workshop. The Committee agreed in the July 2019 SPS Committee meeting to include this recommendation in the revised draft Report of the Fifth Review.