



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 COMMENTS SUBMITTED BY MEMBERS ON THE REVISED RECOMMENDATIONS IN
[G/SPS/W/325](#) AND ON THE DRAFT REPORT OF THE FIFTH REVIEW ([G/SPS/W/313/REV.2](#) AND
[G/SPS/W/313/REV.2/ADD.1](#))

Note by the Secretariat¹

Revision

This compilation includes Members' submitted comments on the revised recommendations in [G/SPS/W/325](#); and on the revised draft Report of the Fifth Review (documents [G/SPS/W/313/Rev.2](#) and [G/SPS/W/313/Rev.2/Add.1](#)).² In addition, included in this compilation are Members' comments on the US submission ([G/SPS/W/323](#)) which also provides comments on the recommendations in [G/SPS/W/313/Rev.2](#).

Section 1 provides a compilation of Members' recent comments on the revised draft recommendations for the Fifth Review ([G/SPS/W/325](#)) which were submitted by the deadline of 2 June.³ Section 2 provides a compilation of Member's earlier comments on Part A of the revised draft Report of the Fifth Review (i.e. the section on proposals, [G/SPS/W/313/Rev.2](#)), including comments on the recommendations and other more general comments.⁴ Section 3 provides a compilation of Members' comments on Part B of the revised draft Report of the Fifth Review (i.e. the factual section, [G/SPS/W/313/Rev.2/Add.1](#)).⁵

**SECTION 1 – MEMBERS' COMMENTS ON THE REVISED DRAFT RECOMMENDATIONS FOR
THE FIFTH REVIEW ([G/SPS/W/325](#))**

1 APPROPRIATE LEVEL OF PROTECTION, RISK ASSESSMENT AND SCIENCE

1.1. *Revised recommendations (Paragraph 1.1 of [G/SPS/W/325](#)):⁶*

- *Given the importance of ensuring that SPS measures are based on scientific principles, the Committee encourages Members to review periodically the SPS measures implemented in their national and/or regional systems, and their risk assessment techniques, as new circumstances and scientific evidence emerge and international standards, guidelines, and recommendations, are developed and updated by Codex, the OIE, or the IPPC.*

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' previous comments on the draft Report of the Fifth Review are available in documents [G/SPS/W/315](#) (and revisions), and [G/SPS/W/318](#) (and revisions).

³ Further to the virtual SPS consultations held on 25 May, Members were invited to submit additional comments on the revised draft recommendations in [G/SPS/W/325](#) by the deadline of 2 June. These comments are provided in Section 1 of this document.

⁴ The comments in Section 2 on [G/SPS/W/313/Rev.2](#) were previously circulated in [G/SPS/W/324](#).

⁵ The comments in Section 3 on [G/SPS/W/313/Rev.2/Add.1](#) were previously circulated in [G/SPS/W/324](#), with the addition of Canada's comments in this version.

⁶ See paragraph 2.15 of [G/SPS/W/313/Rev.2](#) for the previous version of these recommendations.

- *The Committee should continue to discuss the topic of risk, including management of situations involving insufficient scientific information, and consider next steps for discussion.*
- *The Committee invites Members to share experiences and examples of national efforts to consider scientific uncertainty and/or insufficiency of scientific evidence in risk analysis and the development and implementation of SPS measures.*
- *The Committee invites ISSBs to share guidance documents, international standards, guidelines and recommendations pertaining to the consideration of examples of efforts to consider scientific uncertainty and/or insufficiency of scientific evidence in risk analysis and the development of international standards, guidelines and recommendations.*

1.1 Brazil

1.2. In relation to the first bullet, the expression "new circumstances" is excessively broad, and might give room to interpretation in the sense that factors other than those enshrined in the SPS Agreement could be used to legitimize the revision of SPS measures implemented by Members. In this sense, Brazil would like to suggest the suppression of this expression from the recommendation.

1.2 Canada

1.3. Canada supports the revised draft recommendations for the Fifth Review.

2 CONTROL, INSPECTION AND APPROVAL PROCEDURES (ANNEX C)

2.1. Recommendations (Paragraph 2.1 of [G/SPS/W/325](#)):⁷

- *The Committee should continue discussions and information exchange on the topic of control, inspection and approval procedures. To that end, the Committee should 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.*
- *Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee should 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](#), could 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.*

2.1 Canada

2.2. Canada supports the recommendations in the draft report of the 5th Review.

2.3. Canada suggests the following revisions noted in **bold**, which aims to address the comments raised by Members on the second recommendation and also references the point in [G/SPS/W/321](#)

⁷ These are the recommendations reflected in paragraph 3.11 of [G/SPS/W/313/Rev.2](#).

noting that the working group may meet as a physical working group on the margins of the SPS Committee meetings:

- *Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee should 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](#)~~, could 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 European Union

2.4. Suggested edits indicated in the text below in **bold**:

- *The Committee should continue discussions and information exchange on the topic of control, inspection and approval procedures. To that end, the Committee should 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.*
- *Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee should **consider creating 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](#)~~, **could 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.*~~

2.5. The EU rationale in relation to the following edit in the second recommendation "...the Committee should **consider creating create** an electronic working group..." is as follows:

- a. Some of the work envisaged is already carried out by international standard setting bodies, including the Codex Alimentarius Commission. The Committee should further assess whether the setting up of an electronic working group (eWG) is necessary.

2.6. The EU rationale in relation to the deletion of the last sentence and points (i) to (iv) of the second recommendation is as follows:

- a. The Committee should further assess whether an eWG is necessary. The remit of such an eWG should not be established until the potential scope is properly discussed.

2.3 Turkey

2.7. Turkey would like to request Canada to provide Members with a clarification on how the nature of the working group will change after the removal of the word "electronic" from the title of the working group, as it was stated by Canada in the virtual informal consultations on 25 May 2020. Turkey considers that it would be a useful clarification if it responds to the following questions:

- a. Is it a change resulting in a new design and mode of operation for the working group or only an editorial change?
- b. In what manner does this change give "flexibility" to the working group?

2.8. As [G/SPS/W/321](#) defines the "electronic working group" in paragraph 2.4 as "working primarily electronically", in case of Members' acceptance of that edit, we suggest to remove the following part in the recommendations as indicated below in **bold**:

- *Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee should 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](#)**, could 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.*

2.4 United States

2.9. In the informal meeting on 25 May 2020, the European Union requested the deletion of items (i)-(iv) in the second bullet that contained elements the working group could explore. The European Union indicated a preference to leave open the elements for exploration by the working group. We welcome openness to ideas and discussion suggested by the European Union. However, we believe the phrase "could explore" in the chapeau sentence captures such openness to exploration, and therefore support retaining items (i)-(iv).

3 EQUIVALENCE

3.1. Revised recommendations (Paragraph 3.1 of [G/SPS/W/325](#)):⁸

- *Members are encouraged to notify any agreement reached on the recognition of equivalence.*
- *~~Given the importance of Article 4 on equivalence and of the Committee's Decision on the Implementation of Article 4 of the SPS Agreement (Equivalence),³² the Committee should continue discussions and information exchange on the topic of equivalence, including systems approaches, through the existing agenda item and in-depth discussion during future thematic sessions, informal meetings, and working groups as appropriate.~~*
- *Members ~~SPS Committee representatives~~ are encouraged to coordinate with their Codex, OIE, and IPPC representatives and experts to highlight the importance of understanding*

⁸ See paragraph 4.12 of [G/SPS/W/313/Rev.2](#) for the previous version of these recommendations.

~~trade impacts during the development and discussion of international standards, guidelines, and recommendations-ISSB discussions that bear on the issue of equivalence.~~

~~Footnote 32: [G/SPS/19/Rev.2](#).~~

3.1 Canada

3.2. Canada supports the revised draft recommendations for the Fifth Review.

3.2 United States

3.3. The revised third bullet does not clearly distinguish between representatives of the ISSBs themselves and representatives of Member governments to the ISSBs. To clarify this distinction, we suggest the following insertion: "...encouraged to coordinate with their government's Codex, OIE, and IPPC representatives and experts...".

4 FALL ARMYWORM

4.1. Revised recommendations (Paragraph 4.1 of [G/SPS/W/325](#)):⁹

- ~~Members should continue to exchange experiences on efficient, predictable and science-based regulatory approaches that help to mitigate the effect of fall armyworm on trade while safeguarding and that also safeguard human, animal and plant health and life, and taking into account for the specific needs of smallholdings-smallholder farms.~~
- ~~As appropriate, Members are encouraged to request technical assistance to support efforts to improve their integrated pest management strategies and, where needed, their 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.~~
- ~~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 SPS Committee, ~~including and,~~ where appropriate, in the electronic working group on approval procedures ~~established pursuant referred to in paragraph [insert relevant 5th Revision paragraph with the proposal by Canada in [G/SPS/W/321](#). eWG recommendation] above.~~~~

4.1 Canada

4.2. Canada supports the revised draft recommendations for the Fifth Review.

4.2 European Union

4.3. Suggested edits indicated in the text below in **bold**:

- ~~Members should continue to exchange experiences on efficient, predictable and science-based regulatory approaches **to fight fall armyworm** that help to mitigate **the its** effect **of fall armyworm** on trade while safeguarding and that also safeguard human, animal and plant health and life, and taking into account for the specific needs of smallholdings-smallholder farms.~~
- ~~As appropriate, Members are encouraged to request technical assistance to support efforts to improve their integrated pest management strategies and, where needed, their 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.**~~
- ~~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 SPS Committee, ~~including and,~~ where appropriate, in the electronic working group on approval procedures established pursuant referred to in paragraph~~

⁹ See paragraph 5.16 of [G/SPS/W/313/Rev.2](#) for the previous version of these recommendations.

[insert relevant 5th Revision paragraph with the proposal by Canada in [G/SPS/W/321](#). eWG recommendation] above.

4.4. The EU rationale in relation to the edits in the first recommendation is as follows:

- a. Members may take steps to protect against the entry and spread of FAW into their territory. These steps may have an impact on trade of the affected crop. The primary objective of the regulatory measures should be to fight FAW. Thus, Members should develop regulatory approaches to fight FAW also in order to ensure that crops can be safely traded. In the current version of this paragraph, the fight against the pest appears to be subordinated to trade considerations.

4.5. The EU rationale in relation to the edits in the second recommendation is as follows:

- a. As the discussion on FAW has highlighted, several regulatory and policy approaches could be available to Members to prevent the entry of FAW and mitigate its effect on crops. Thus, the European Union does not consider appropriate to indicate what should be the objective of requests for technical assistance and/or to address a specific aspect of the strategy that could be implemented to fight FAW.

4.3 United States

4.6. In the informal meeting on 25 May 2020, the European Union noted interest in changing the focus in the recommendations from regulatory approaches to the pest itself. We note that the exercise at hand is the review of the implementation of the Agreement on the Application of SPS Measures, not a review of a particular pest. Fall armyworm is a case study on the impact of the application of SPS approval and inspection procedures on, *inter alia*, Members' ability to improve plant health through integrated pest management strategies.

4.7. The European Union also suggested striking the phrase "*...with the goal of, inter alia, enabling greater access to products that strengthen host plant resistance*" in the second bullet. As strengthening resistance has been central to the efforts of plant breeders for centuries, we are interested to understand the rationale for this suggestion. In the United States, for example, a seminal 1990 study¹⁰ found that 99.99 percent of pesticides in the American diet were produced by the plants themselves to defend against pests and diseases. As amply shown by the representative of CIMMYT at the thematic session on FAW, breeders make use of, *inter alia*, such naturally occurring traits to improve host plant resistance. The United States strongly supports efforts to enable greater access to crops with strengthened resistance, particularly by smallholder farmers.

5 NATIONAL SPS COORDINATION MECHANISMS

5.1. Revised recommendations (Paragraph 5.1 of [G/SPS/W/325](#)):¹¹

- *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 that are consistent with the obligations of the SPS Agreement. Members are further encouraged to consider ways to strengthen internal coordination on SPS matters.*
- *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, including resolving specific trade concerns.*
- *The Committee requests the Secretariat to prepare a collection of resources 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~~*

¹⁰ Ames, et al, Dietary Pesticides, PNAS October 1990.

¹¹ See paragraph 6.7 of [G/SPS/W/313/Rev.2](#) for the previous version of these recommendations.

~~attention to the concepts and questions outlined in [G/SPS/W/297](#), and including additional resources as suggested by Members.~~

5.1 Canada

5.2. Canada supports the revised draft recommendations for the Fifth Review.

5.2 Japan

5.3. In relation to the third recommendation in paragraph 5.1 of [G/SPS/W/325](#), Japan supports the current draft with the deletion of particular reference to [G/SPS/W/297](#) because it gives more flexibility and an expanded scope of work in the future.

5.3 United States

5.4. We suggest deletion of this comma in the first bullet: "...to enable the development of coordinated~~7~~ SPS positions that are consistent with the obligations of the SPS Agreement."

6 NOTIFICATION PROCEDURES AND TRANSPARENCY

6.1. Revised recommendations (Paragraph 6.1 of [G/SPS/W/325](#)):¹²

- *Members are encouraged to clearly indicate in their SPS Committee notifications when a measure has been notified to another Committee.⁵¹ Members should include this information under the point of the notification format titled "Other relevant documents and language(s) in which these are available".⁵²*

Footnote 51: Please refer to section 2.7 of the Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7) in document [G/SPS/7/Rev.4](#), which also makes reference to notifying a regulation containing SPS and TBT measures under both the SPS and TBT Agreements.

~~Footnote 52: In the Committee's Recommended Transparency Procedures ([G/SPS/7/Rev.4](#)), the explanatory sections of the notification formats in Annex A-1 and Annex B-1 indicate that this type of information should be included in the notification format under the point titled "Description of content". This section would have to be updated if the Committee agreed that this information should be included under the point titled "Other relevant documents and language(s) in which these are available".~~

6.1 Canada

6.2. Canada supports the revised draft recommendations for the Fifth Review.

6.2 Japan

6.3. In relation to footnote 51 in paragraph 6.1, Japan supports the inclusion of footnote 51 because the footnote reminds us of the original intention of this recommendation that measures containing both SPS and TBT elements should be notified according to the SPS and TBT Agreements.

6.4. In relation to footnote 52 in paragraph 6.1, Japan supports the deletion of footnote 52 because once we agree to include the information at the "Other relevant documents" in the text, this footnote contradicts the text.

7 MRLS FOR PLANT PROTECTION PRODUCTS

7.1. Recommendations (Paragraph 7.1 of [G/SPS/W/325](#)):¹³

- *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*

¹² See paragraph 7.13 of [G/SPS/W/313/Rev.2](#) for the previous version of these recommendations.

¹³ These are the recommendations reflected in paragraph 8.6 of [G/SPS/W/313/Rev.2](#).

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.

- *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.*
- *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 implement similar activities 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.*
- *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.*

7.1 Brazil

7.2. In relation to the third bullet, SPS measures, including MRLs, are to be harmonized according to Article 3 of the SPS Agreement, which brings the ISSBs to the core of the system. Encouraging Members to "improve harmonization to regional MRLs" may result in deviations from Codex standards, which could weaken the implementation of Article 3. In this sense, Brazil would like to suggest the suppression of this reference to "regional MRLs" from the recommendation.

7.3. **Note:** After the clarifications made by the United States, regarding the context in which this regional MRL issue had emerged and the fact that this encouragement would only take place in case of non-existence of a Codex MRL, Brazil would then withdraw the suggestion to delete it, but would welcome the insertion of some language containing that clarification.

7.2 Canada

7.4. As a cosponsor of this proposal, Canada supports the recommendations.

7.3 Japan

7.5. In relation to the recommendations in paragraph 7.1, as a cosponsor of this proposal, Japan supports the recommendations. Japan would like to continuously collaborate with Members and relevant observer organizations such as Codex, APEC, and OECD, in order to promote development of MRL standards based on scientific justification.

8 REGIONALIZATION

8.1. Revised recommendations (Paragraph 8.1 of G/SPS/W/325):¹⁴

- *The Committee recognizes the importance of regionalization^x to safe trade in agricultural products and processed products. The Committee encourages Members to respond to*

¹⁴ See paragraph 9.15 of [G/SPS/W/313/Rev.2](#) for the previous version of these recommendations.

requests from other Members concerning regionalization in a timely manner and to avoid unnecessary requests for information.

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

New footnote x: In the OIE context, regionalization is referred to as zoning and compartmentalization.

8.1 Canada

8.2. Canada supports the revised draft recommendations for the Fifth Review.

8.2 Japan

8.3. In relation to the first recommendation in paragraph 8.1, Japan recommends deletion of "and processed products" because the words do not appear in relevant international standards, guidelines or recommendations or the guidelines adopted by the WTO SPS Committee ([G/SPS/48](#)). Japan is flexible with the replacement of "agricultural products" with "animals, animal products, plants and plant products".

8.3 United States

8.4. In the informal meeting on 25 May 2020, Japan asked Peru for the rationale for the insertion of the term "processed products" in the first bullet. We appreciate the effort by Japan to bring attention to this insertion. The United States does not support the retention of the term "processed products" in this bullet. In general, processed products are treated in manners that make them safe to trade regardless of the disease status of the area of origin, rendering regionalization irrelevant. To the extent processed products are food or feed products, they would be considered agricultural products for trade purposes, and it would be problematic to suggest that they are not.

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

9.1. Revised recommendations (Paragraph 9.1 of [G/SPS/W/325](#)):¹⁵

- *The International Standard Setting Bodies (ISSBs) are invited to provide information on ~~relevant~~ their standards, guidelines and recommendations in the SPS Committee meetings.*

¹⁵ See paragraph 10.12 of [G/SPS/W/313/Rev.2](#) for the previous version of these recommendations.

- ~~The International Standard Setting Bodies are invited~~ Committee encourages SPS Committee representatives to provide information on consult with their relevant ISSB experts for advice when a specific trade concern arises regarding one of the ISSB's relevant standards, guidelines and or recommendations in the SPS Committee meetings.
- ~~The Committee may continue to consider the role of Codex, IPPC and OIE in addressing~~ with respect to specific trade concerns.

9.1 Brazil

9.2. In relation to the third bullet, Brazil believes that the role of ISSBs within the work of the Committee, including specific trade concerns, has to be strengthened. In this sense, we recommend replacing "may" by "should" in this recommendation.

9.2 Canada

9.3. Canada supports the second and third bullets of revised draft recommendations for the Fifth Review.

9.4. Regarding the first recommendation, Canada recalls the information provided by Codex, IPPC and OIE contained in [G/SPS/W/314](#). In line with this proposal, Canada suggests the following revisions noted in **bold**:

- *The International Standard Setting Bodies (ISSBs) are invited to provide **factual** information on ~~relevant~~ their standards, guidelines and recommendations, **without interpreting the provisions,** in the SPS Committee meetings.*

9.3 Indonesia

9.5. The role of Codex, IPPC and OIE as ISSBs is to provide international standards, guidelines and recommendations to be used to support the determination of implementing SPS measures in trade by Members. When Members raise specific trade concerns in the Committee Meeting, the Secretariat gives time to the related ISSB to deliver its statement. This is important to ensure that measures taken by a country/Member do not violate the applicable provisions or international standards.

9.4 Japan

9.6. In relation to the three recommendations in paragraph 9.1, Japan can support the draft as it is currently written.

9.5 United States

9.7. Our strong preference is to delete the first bullet inviting the ISSBs to speak to standards, guidelines, or recommendations in relation to specific trade concerns (STCs). We note that the ISSBs made their views clear in [G/SPS/W/314](#): "It is necessary that ISSBs remain neutral on STCs, given that the interpretation of standards, guidelines and recommendations is the responsibility of each Member." We believe the Committee should respect the expressed views of the ISSBs.

10 GENERAL COMMENTS

10.1 Belize¹⁶

10.1. Belize takes this opportunity to thank the Secretariat for compiling and circulating the comments received from Members on the draft Report of the Review of the Operation and Implementation of the SPS Agreement.

10.2. Our intervention covers 3 issues:

¹⁶ Belize also submitted its comments on the Fifth Review as a separate document [G/SPS/W/327](#).

1. The format of the Report;
2. Decisions that were taken but which did not materialize as a result of the pandemic; and
3. The next steps – how to implement the decisions that are still pending.

The Format of the Report

10.3. Document [G/SPS/W/313/Rev.2](#), under the section "Voluntary Third-Party Assurance Schemes", contains an accurate summary of the discussions that transpired in the Committee under this agenda item and includes the decision of the Committee to hold a thematic session in March 2020.

10.4. We also recognize that document [G/SPS/W/325](#) only reflects recommendations and in so doing, unfortunately does not capture the decisions of the Committee.

10.5. It is our view that if the decision of the Committee is captured in a similar fashion as the recommendations, the reporting will be balanced. As a result, we propose that the Committee's decision to hold a Thematic Session on Voluntary Third-Party Assurance be captured in a similar manner.

10.6. This recommendation would be subject to the acceptable approved WTO format for writing the report.

10.7. Recommendation:

- *The Committee had agreed to hold a Thematic Session on Voluntary Third-Party Assurance in March 2020, which had to be postponed due to the COVID-19 pandemic. The Committee agrees to reschedule this Thematic Session as soon as the COVID-19 situation allows.*

10.8. We also agree with the inclusion of the footnotes with reference to the documents: [G/SPS/W/320](#) and [G/SPS/GEN/1754/Rev.1](#).

10.9. Belize considers that if this is done, and the Committee desires to have a document which solely reflects recommendations, then it will also need to capture this decision.

Decisions that did not materialize due to the COVID-19 pandemic

10.10. Considering that the Committee was unable to hold that session due to the COVID-19 pandemic, we feel that if the decision is not reflected under the revised draft recommendations for the Fifth Review of the Report, this decision could easily be lost.

10.11. We do not know how that can be done but would simply like to signal that it should be reflected in the report.

The next steps – Implementation of pending decisions

10.12. We note that some Members have suggested the possibility of holding webinars to advance the work of the Committee, including exploring the possibility of using that avenue for covering some of the thematic sessions.

10.13. Belize would like to share that we are still reviewing this consideration and will need more time to explore this possibility due to several challenges: a webinar has a shorter time frame and less areas would be covered. The time difference (different countries have different time zones) is also another challenge and last but not least, limitations in technology.

SECTION 2 – MEMBERS' COMMENTS ON PART A OF THE REVISED DRAFT REPORT OF THE FIFTH REVIEW (SECTION ON PROPOSALS, [G/SPS/W/313/REV.2](#))

11 APPROPRIATE LEVEL OF PROTECTION, RISK ASSESSMENT AND SCIENCE

11.1. *Recommendations (Paragraph 2.15 of [G/SPS/W/313/Rev.2](#)):*

- *Given the importance of ensuring that SPS measures are based on scientific principles, the Committee encourages Members to review periodically the SPS measures implemented in their national and/or regional systems, and their risk assessment techniques, as new circumstances and scientific evidence emerge and international standards, guidelines, and recommendations, are developed and updated by Codex, the OIE, or the IPPC.*
- *The Committee should continue to discuss the topic of risk, including management of situations involving insufficient scientific information, and consider next steps for discussion.*
- *The Committee invites Members to share experiences and examples of national efforts to consider scientific uncertainty and/or insufficiency of scientific evidence in risk analysis and the development and implementation of SPS measures.*
- *The Committee invites ISSBs to share examples of efforts to consider scientific uncertainty and/or insufficiency of scientific evidence in risk analysis and the development of international standards, guidelines and recommendations.*

11.2 Canada

11.2. Canada has a suggested revision to the last recommendation:

- *The Committee invites ISSBs to share guidance documents, international standards, guidelines and recommendations pertaining to the consideration of ~~examples of efforts to consider scientific uncertainty and/or insufficiency of scientific evidence in risk analysis and the development of international standards, guidelines and recommendations.~~*

11.3 India

11.3. We note that the recommendations make a reference to "scientific uncertainty and/or insufficiency of scientific evidence" in risk analysis as well as development and implementation of measures. While Article 5.7 of the SPS Agreement pertains to a situation where the relevant scientific evidence is insufficient, the SPS Agreement does not refer to the concept of "scientific uncertainty". India would like to seek a clarification regarding the legal basis of the term, "scientific uncertainty".

12 CONTROL, INSPECTION AND APPROVAL PROCEDURES (ANNEX C)

12.1. *Recommendations (Paragraph 3.11 of [G/SPS/W/313/Rev.2](#)):*

- *The Committee should continue discussions and information exchange on the topic of control, inspection and approval procedures. To that end, the Committee should 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.*
- *Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee should 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](#), could 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.*

12.1 Canada

12.2. Canada supports the recommendations in the draft Report of the Fifth Review.

12.3. Canada does not support the suggested revision from the United States in [G/SPS/W/323](#) to remove reference to the working group proposal; Canada considers it important to include the reference to the proposal ([G/SPS/W/321](#)) in the recommendation, since the proposal provides further detail and context for the establishment of the working group.

12.2 India

12.4. Rather than reference [G/SPS/W/321](#), we suggest that the topics that the e-Working Group could explore, are listed directly in the recommendations themselves.

12.3 Korea, Republic of

12.5. Korea, Republic of submits the following comments on the recommendations of the draft Report in [G/SPS/W/313/Rev.2](#). We would like to delete the following sentences, for a more flexible approach to the electronic working group (recommendations in paragraph 3.11):

- *The Committee should continue discussions and information exchange on the topic of control, inspection and approval procedures. To that end, the Committee should 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.*
- *Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee should 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](#), could 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.~~

12.4 United Kingdom

12.6. The United Kingdom supports the recommendation to consider Annex C as a standalone item on the agenda to facilitate an exchange of views.

12.5 United States¹⁷

12.7. The revised recommendations from the United States, as indicated in [G/SPS/W/323](#), are as follows:

- *The Committee should continue discussions and information exchange on the topic of control, inspection and approval procedures. To that end, the Committee should 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.*
- *Following the fruitful exchange of experiences and ideas at the November 2019 SPS Committee Thematic Session on Approval Procedures, the Committee should 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](#),~~ The electronic working group could 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.**

12.8. Comments from the United States on its suggested edits for the second recommendation on control, inspection and approval procedures in relation to the revised text "~~The electronic working group, outlined in [G/SPS/W/321](#),~~ The electronic working group could explore the...":

- a. Rather than reference [G/SPS/W/321](#), we suggest the recommendation list the topics that the eWG "could" explore. That way, the eWG can take up the elements of interest to Members.

13 EQUIVALENCE

13.1. Recommendations (Paragraph 4.12 of [G/SPS/W/313/Rev.2](#)):

- *Members are encouraged to notify any agreement reached on the recognition of equivalence.*
- *Given the importance of Article 4 on equivalence and of the Committee's Decision on the Implementation of Article 4 of the SPS Agreement (Equivalence),³² the Committee should continue discussions and information exchange on the topic of equivalence, including systems approaches, through the existing agenda item and in-depth discussion during future thematic sessions, informal meetings, and working groups as appropriate.*
- *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 discussion of international standards, guidelines, and recommendations on the issue of equivalence.*

Footnote 32: [G/SPS/19/Rev.2](#).

¹⁷ The United States also submitted its comments on the recommendations in [G/SPS/W/313/Rev.2](#) as a separate document [G/SPS/W/323](#).

13.2 Canada

13.2. Canada supports the recommendations in the draft report of the Fifth Review and the revisions to the recommendations made by the United States in [G/SPS/W/323](#).

13.3 United States¹⁸

13.3. The revised recommendations from the United States, as indicated in [G/SPS/W/323](#), are as follows:

- *Members are encouraged to notify any agreement reached on the recognition of equivalence.*
- ~~*Given the importance of Article 4 on equivalence and of the Committee's Decision on the Implementation of Article 4 of the SPS Agreement (Equivalence),¹⁹ the Committee should continue discussions and information exchange on the topic of equivalence, including systems approaches, through the existing agenda item and in-depth discussion during future thematic sessions, informal meetings, and working groups as appropriate.*~~
- ~~*Members SPS Committee representatives are encouraged to coordinate with their country's Codex, OIE, and IPPC representatives and experts to highlight the importance of understanding trade impacts during the development and discussion of international standards, guidelines, and recommendations*~~ *ISSB discussions that bear on the issue of equivalence.*

13.4. Comments from the United States on its suggested edits for the second recommendation on equivalence in relation to the deleted text "~~*Given the importance of Article 4 on equivalence and of the Committee's Decision on the Implementation of Article 4 of the SPS Agreement (Equivalence),²⁰*~~":

- a. On further reflection, we would prefer not to single out specific obligations as "important" or to reaffirm. The SPS Agreement lays out a balance of rights and obligations.

13.5. Comments from the United States on its suggested edits for the third recommendation on equivalence in relation to the revised text "*...ISSB discussions that bear on the issue of equivalence...*":

- a. We would like this to refer to ISSB discussions bearing on equivalence more broadly. This accounts for the trade significance of discussions that bear on equivalence but that are not about the development of standards, guidelines, or recommendations specifically focused on the general topic of equivalence; and this ensures the relevance of the 5th Review recommendation regardless of how ISSB agendas and discussions evolve.

14 FALL ARMYWORM

14.1. *Recommendations (Paragraph 5.16 of [G/SPS/W/313/Rev.2](#)):*

- *Members should continue to exchange experiences on efficient, predictable and science-based regulatory approaches that help to mitigate the effect of fall armyworm on trade while safeguarding human, animal and plant health and life, and taking into account specific needs of smallholdings.*
- *As appropriate, Members are encouraged to request technical assistance to support efforts to improve their integrated pest management strategies and, where needed, their 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.*

¹⁸ The United States also submitted its comments on the recommendations in [G/SPS/W/313/Rev.2](#) as a separate document [G/SPS/W/323](#).

¹⁹ ~~[G/SPS/19/Rev.2](#)~~.

²⁰ ~~[G/SPS/19/Rev.2](#)~~.

- *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 SPS Committee, including where appropriate in the electronic working group on approval procedures established pursuant to the proposal by Canada in [G/SPS/W/321](#).*

14.1 Canada

14.2. Canada supports the recommendations in the draft report of the Fifth Review and the revisions to the recommendations made by the United States in [G/SPS/W/323](#).

14.3. Canada welcomes discussion of the concepts identified in [G/SPS/W/317](#) in the electronic working group on approval procedures, which was proposed by Canada in [G/SPS/W/321](#).

14.2 India

14.4. We find that there are certain ambiguities in the text of the recommendations:

- a. How does the Membership understand the term "smallholdings"? It is a term neither used in the SPS Agreement nor in [G/SPS/W/317](#).
- b. It is unclear what kind of technical assistance is envisaged/expected in paragraph 2 of the recommendations. Is the technical assistance expected from the Membership or the Secretariat? If the former, are the contours of the technical assistance to be guided by Article 9 of the SPS Agreement which deals with the subject, or does it go beyond the scope of Article 9? We may consider making a reference to Article 9 in the second paragraph if we want the level of obligation on the non-requesting Members to be limited to "facilitate(ing) the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations."
- c. With respect to the third paragraph of the recommendations, the stakeholders had earlier identified certain problems with the various concepts listed in [G/SPS/W/317](#). In India's comments on [G/SPS/W/318](#), where it was proposed to recognise the concepts of: 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, India has asked the following questions:
 - 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?"

- d. We note that the recommendation now is only an encouragement to continue discussion on these concepts, including through the electronic working group. We would still encourage the proponents to provide written answers to above-mentioned questions that India has raised on the Fall Army Worm proposal.

14.3 Chinese Taipei

14.5. Our comments on the document [G/SPS/W/323](#) are to point 4 on fall armyworm, where the United States suggests to replace "smallholdings" to "smallholder farm families". Because the definition of "family" might be different among the 164 WTO Members, and in some Members, it might mean a much bigger family than in the United States, we consider whether it might be clearer to use "smallholders" or "smallholdings" to represent the idea of "small".

14.4 United States²¹

14.6. The revised recommendations from the United States, as indicated in [G/SPS/W/323](#), are as follows:

- *Members should continue to exchange experiences on efficient, predictable and science-based regulatory approaches that help to mitigate the effect of fall armyworm on trade while safeguarding and that also safeguard human, animal and plant health and life, and taking into account for the specific needs of ~~smallholdings~~ smallholder farm families.*
- *As appropriate, Members are encouraged to request technical assistance to support efforts to improve their integrated pest management strategies and, where needed, their 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.*
- *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 SPS Committee, ~~including and~~ where appropriate, in the electronic working group on approval procedures ~~established pursuant referred to in paragraph [insert relevant 5th Revision paragraph with the proposal by Canada in [G/SPS/W/321](#). eWG recommendation] above.~~*

14.7. Comments from the United States on its suggested edits for the first recommendation on fall armyworm in relation to the revised text "...smallholder farm families.":

- a. The "smallholding" would be the land itself, which would not have needs. The original "smallholder farm families" seems more appropriate.

14.8. Comments from the United States on its suggested edits for the third recommendation on fall armyworm in relation to the revised text "...~~established pursuant referred to in paragraph [insert relevant 5th Revision paragraph with the proposal by Canada in [G/SPS/W/321](#). eWG recommendation] above.~~":

- a. Due to confusion about what "established pursuant to the proposal by Canada" would bring in, refer to the eWG in this way.

15 NATIONAL SPS COORDINATION MECHANISMS

15.1. *Recommendations (Paragraph 6.7 of [G/SPS/W/313/Rev.2](#)):*

- *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 consistent with the*

²¹ The United States also submitted its comments on the recommendations in [G/SPS/W/313/Rev.2](#) as a separate document [G/SPS/W/323](#).

obligations of the SPS Agreement. Members are further encouraged to consider ways to strengthen internal coordination on SPS matters.

- *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, including resolving specific trade concerns.*
- *The Committee requests the Secretariat to prepare a collection of resources 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.*

15.1 Canada

15.2. Canada supports the recommendations in the draft report of the Fifth Review and the revisions to the recommendations made by the United States in [G/SPS/W/323](#).

15.3. Canada is uncertain of the necessity to emphasize in the last recommendation the development of the collection of resources with particular attention on the concepts and questions outlined in [G/SPS/W/297](#). Rather the collection of resources should focus on the resources discussed during the Workshop on Transparency and Coordination. If desired, Members could suggest additional resources to the Secretariat based on the concepts and questions outline in [G/SPS/W/297](#) or other experiences.

15.2 Korea, Republic of

15.4. Korea, Republic of submits the following comments on the Recommendations of the draft Report in [G/SPS/W/313/Rev.2](#). We would like to delete the following sentences, for a more flexible approach to the National SPS coordination mechanisms (recommendations in paragraph 6.7).

- *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 consistent with the obligations of the SPS Agreement. Members are further encouraged to consider ways to strengthen internal coordination on SPS matters.*
- *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, including resolving specific trade concerns.*
- *The Committee requests the Secretariat to prepare a collection of resources 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.*

15.3 United States²²

15.5. The revised recommendations from the United States, as indicated in [G/SPS/W/323](#), are as follows:

- *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 that are consistent with*

²² The United States also submitted its comments on the recommendations in [G/SPS/W/313/Rev.2](#) as a separate document [G/SPS/W/323](#).

the obligations of the SPS Agreement. Members are further encouraged to consider ways to strengthen internal coordination on SPS matters.

- *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, including resolving specific trade concerns.*
- *The Committee requests the Secretariat to prepare a collection of resources 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.*

15.6. Comments from the United States on its suggested edit for the first recommendation on national SPS coordination mechanisms:

- a. To be clear that we want the positions to be consistent with the SPS Agreement – and that we are not saying there is an SPS Agreement requirement for internally coordinated positions.

16 NOTIFICATION PROCEDURES AND TRANSPARENCY

16.1. *Recommendations (Paragraph 7.13 of [G/SPS/W/313/Rev.2](#)):*

- *Members are encouraged to clearly indicate in their SPS Committee notifications when a measure has been notified to another Committee.⁵¹ Members should include this information under the point of the notification format titled "Other relevant documents and language(s) in which these are available".⁵²*

Footnote 51: Please refer to section 2.7 of the Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7) in document [G/SPS/7/Rev.4](#), which also makes reference to notifying a regulation containing SPS and TBT measures under both the SPS and TBT Agreements.

Footnote 52: In the Committee's Recommended Transparency Procedures ([G/SPS/7/Rev.4](#)), the explanatory sections of the notification formats in Annex A-1 and Annex B-1 indicate that this type of information should be included in the notification format under the point titled "Description of content". This section would have to be updated if the Committee agreed that this information should be included under the point titled "Other relevant documents and language(s) in which these are available".

16.1 Argentina

16.2. Argentina does not consider it necessary to remove footnote 51 from document [G/SPS/W/313/Rev.2](#) because there is nothing to indicate that it might create confusion, as argued by the United States. On the contrary, it considers that the reference to document [G/SPS/7/Rev.4](#) is relevant, in that the section in question mentions that it is preferable, in addition to notifying both the SPS Committee and the TBT Committee when a measure falls under both the SPS and TBT Agreements, to indicate which parts of the measure fall under each respective agreement. Such an indication could facilitate the analysis and processing of notifications, especially in countries with fewer resources, thereby generating greater transparency.

16.3. On the other hand, Argentina agrees with the comments made by the United States regarding the removal of footnote 52 from document [G/SPS/W/313/Rev.2](#), given that it proposes that indication of whether the measure has also been notified to the TBT Committee should be included in point 9 ("Other relevant documents"), while document [G/SPS/7/Rev.4](#) recommends that point 6 ("Description of content") should include an indication of which parts of a measure subject to double notification fall under the SPS Agreement and which parts fall under the TBT Agreement.

16.2 Canada

16.4. Canada supports the recommendation in the draft report of the Fifth Review.

16.5. Regarding the US comments in [G/SPS/W/323](#), Canada supports the deletion of the second footnote.

16.6. However, Canada sees value in the inclusion of the first footnote and does not consider that this footnote would lead to confusion.

16.3 United States²³

16.7. The revised recommendations from the United States, as indicated in [G/SPS/W/323](#), are as follows:

- *Members are encouraged to clearly indicate in their SPS Committee notifications when a measure has been notified to another Committee.²⁴ Members should include this information under the point of the notification format titled "Other relevant documents and language(s) in which these are available".²⁵*

16.8. Comments from the United States on its suggested edit for the recommendation on notification procedures and transparency:

- a. We do not believe that the footnotes should be included. These footnotes are slightly off point in ways that could create confusion.
- b. We feel the content of footnote 4 (i.e. the second footnote) is inaccurate. Box 6, description of content, suggests identifying which parts of a dual-notified measure are SPS and which TBT.
- c. The new proposed notification for box 9 (other relevant documents) would indicate whether the measure was also notified to the TBT committee. Whether it has been dually notified is different from the question of which parts are SPS and which TBT.

17 MRLS FOR PLANT PROTECTION PRODUCTS

17.1. *Recommendations (Paragraph 8.6 of [G/SPS/W/313/Rev.2](#)):*

- *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.*
- *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.*
- *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 implement similar activities at the national and regional*

²³ The United States also submitted its comments on the recommendations in [G/SPS/W/313/Rev.2](#) as a separate document [G/SPS/W/323](#).

²⁴ Please refer to section 2.7 of the Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7) in document [G/SPS/7/Rev.4](#), which also makes reference to notifying a regulation containing SPS and TBT measures under both the SPS and TBT Agreements.

²⁵ In the Committee's Recommended Transparency Procedures ([G/SPS/7/Rev.4](#)), the explanatory sections of the notification formats in Annex A 1 and Annex B 1 indicate that this type of information should be included in the notification format under the point titled "Description of content". This section would have to be updated if the Committee agreed that this information should be included under the point titled "Other relevant documents and language(s) in which these are available".

levels to improve harmonization to Codex MRLs, as well as to regional MRLs where relevant, in order to facilitate trade.

- *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.*

17.1 Argentina

17.2. The recommendations contained in the report are in line with those proposed in document [G/SPS/W/292/Rev.4](#), which was submitted by Argentina together with other Members. It is considered particularly important to include in the report the recommendations put forward in this document, with the wording as proposed.

17.2 Canada

17.3. As a cosponsor of this proposal, Canada supports the recommendations.

18 REGIONALIZATION

18.1. *Recommendations (Paragraph 9.15 of [G/SPS/W/313/Rev.2](#)):*

- *The Committee recognizes the importance of regionalization to safe trade in agricultural products. The Committee encourages Members to respond to requests from other Members concerning regionalization in a timely manner and to avoid unnecessary requests for information.*
- *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).*
- *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.*
- *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.*
- *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.*
- *The Committee should further discuss issues related to Article 6, including the Committee Guidelines, through future thematic sessions, informal meetings or working groups, as appropriate.*

18.1 Canada

18.2. Canada supports the recommendations in the draft report of the Fifth Review.

18.2 Peru

18.3. Regarding the draft Report of the Review of the Operation and Implementation of the SPS Agreement ([G/SPS/W/313/Rev.2](#)), Peru would like to submit the following proposal for the first bullet for point 9.15 (the recommendations contained in the regionalization subheading) to include "*and processed products*," to read as following:

- *The Committee recognizes the importance of regionalization to safe trade in agricultural products and processed products. The Committee encourages Members to respond to requests from other Members concerning regionalization in a timely manner and to avoid unnecessary requests for information.*

18.3 Chinese Taipei

18.4. Our comments on the draft Report of the 5th Review are in relation to the recommendation (point 3) on regionalization in paragraph 9.15 of [G/SPS/W/313/Rev.2](#):

- *"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."*

18.5. Based on data protection as well as securing another Member's rights, it is not suggested for Members to share another Member's information on requesting recognition of pest- or disease-free areas. Thus, we suggest to delete "*including on how another Member may request recognition of pest- or disease-free areas.*"

18.4 United Kingdom

18.6. The United Kingdom recommends the Committee to consider compartmentalisation in parallel.

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

19.1. *Recommendations (Paragraph 10.12 of [G/SPS/W/313/Rev.2](#)):*

- *The International Standard Setting Bodies are invited to provide information on relevant standards, guidelines and recommendations in the SPS Committee meetings.*
- *The Committee may continue to consider the role of Codex, IPPC and OIE in addressing specific trade concerns.*

19.1 Argentina

19.2. Argentina considers that the amendment proposed by the United States to the first point of recommendation 10.12 changes the content of that recommendation. In this connection, the original recommendation was addressed to the Codex, IPPC and OIE, which were invited to provide information on their standards in SPS Committee meetings.

19.3. If the amendments suggested by the United States were to be implemented, the recommendation would be addressed to the Members of the Committee, who would be encouraged to hold consultations within the framework of these standard setting bodies to obtain advice and guidance when a specific trade concern arises with respect to the standards of these bodies.

19.4. Given the above, it would be advisable to keep the original wording of the first recommendation, which does not preclude the possible inclusion of the United States' proposal as an additional recommendation.

19.2 Canada

19.5. Canada supports the recommendations as stated in the draft Report of the Fifth Review.

19.6. However, Canada has additional revisions (in italics) for the first recommendation as revised by the United States in [G/SPS/W/323](#):

- ~~The International Standard Setting Bodies are invited~~ *Committee encourages Members to provide information on consult with their relevant ISSB experts for advice and counsel when a specific trade concern arises regarding one of the ISSB's relevant standards, guidelines and or recommendations in the SPS Committee meetings.*

19.7. Canada considers that this recommendation should be related to Members seeking advice from their domestic ISSB experts in advance of the SPS Committee rather than seeking advice from the ISSBs themselves.

19.3 India

19.8. We note that Article 12.6 of the SPS Agreement states:

"The Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 4."

19.9. We would prefer replacing the term "addressing specific trade concerns" in the second recommendation, with "with respect to specific trade concerns". This would ensure that the process in the Committee with respect to the STCs, remains Member-driven.

19.4 United Kingdom

19.10. The United Kingdom suggests this alternative phrasing for the first recommendation:

- The Committee encourages Members to consult with the relevant ISSB for advice and counsel when a specific trade concern arises regarding one of the ISSB's standards, guidelines or recommendations.

19.11. The United Kingdom suggests this alternative phrasing for the second recommendation:

- The Committee may continue to consider the role of Codex, IPPC and OIE with respect to specific trade concerns.

19.5 United States²⁶

19.12. The revised recommendations from the United States, as indicated in [G/SPS/W/323](#), are as follows:

- ~~The International Standard Setting Bodies are invited~~ *Committee encourages Members to provide information on consult with the relevant ISSB for advice and counsel when a specific trade concern arises regarding one of the ISSB's standards, guidelines and or recommendations in the SPS Committee meetings.*
- *The Committee may continue to consider the role of Codex, IPPC and OIE in addressing with respect to specific trade concerns.*

19.13. Comments from the United States on its suggested edit in the second recommendation on the role of Codex, IPPC and OIE in relation to the revised text "~~in addressing with respect to...~~":

- a. Current phrasing presumes they have a role in "addressing" the concerns. That would misunderstand the permissible role of ISSBs.

²⁶ The United States also submitted its comments on the recommendations in [G/SPS/W/313/Rev.2](#) as a separate document [G/SPS/W/323](#).

20 GENERAL COMMENTS

20.1 Argentina

20.1. Argentina thanks the Secretariat for preparing the documents for the Fifth Review of the SPS Agreement, which reflect the discussions held so far. We also thank the United States for the comments that they submitted, which are broadly shared.

20.2. However, it draws attention to its comments above.

20.2 European Union

20.3. Regarding [G/SPS/W/313/Rev.2](#) and [G/SPS/W/313/Rev.2/Add.1](#), we have no further comments on the text.

20.3 Turkey

20.4. As the SPS working group of Turkey, we would like to inform you that we have no comments on the documents.

SECTION 3 – MEMBERS' COMMENTS ON PART B OF THE REVISED DRAFT REPORT OF THE FIFTH REVIEW (FACTUAL SECTION, [G/SPS/W/313/REV.2/ADD.1](#))

21 GENERAL COMMENTS

21.1 Canada

21.1. As a general comment to improve clarity, Canada suggests rather than just stating the year of Member/Observer/Secretariat interventions/statements to specify in footnotes the specific meeting(s) and associated Committee report(s), considering that there are three Committee meetings per year. This will allow interested readers to easily identify and review the relevant Committee reports for further detail on the related discussions. Canada has highlighted throughout the report, points where this further specificity could be provided.

21.2. In relation to the following paragraphs of [G/SPS/W/313/Rev.2/Add.1](#), Canada suggests to specify when the specific meetings were held and associated Committee reports (or proposal/document) in a footnote. This will allow interested readers to review the relevant Committee reports for further detail:

- a. Paragraphs 3.3, 3.6, 4.2, 6.2-6.6, 6.10, 10.3-10.9, 12.1, 12.4, 12.6, 12.15, 12.17-12.21, 12.23, 12.29-12.32, 12.36, 12.39, 12.41, 12.43, 12.44, 12.46, 12.48, 12.50, 13.1, 14.4, 14.10, 14.15, 14.16, 15.3, 15.6-15.12, 16.4, 17.3-17.5, 17.7, 17.24, 18.3-18.8, 18.12, 19.9 and 19.35.²⁷

21.3. In relation to footnote 12 (paragraph 3.4), Canada suggests to also note that the webcast of the thematic session is available online:

- a. Footnote 12: *"The programme is available circulated in document [G/SPS/GEN/1704/Rev.1](#), based on the proposal submitted by Canada in document [G/SPS/W/310](#). The presentations and webcast of the thematic session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop05112019_e.htm."*

21.4. In relation to paragraph 4.1, Canada suggests the following revision to improve clarity:

- a. *"During SPS Committee meetings, ~~the~~ standard-setting observer organizations provide relevant information on any work related to the SPS Agreement under the agenda item on "Information Sharing". Relevant documents are listed in Appendix C."*

²⁷ Canada provided in its comments, the specific placement of the footnote in each of these paragraphs.

21.5. In relation to paragraph 7.2, Canada suggests the following revision to improve clarity:

- a. *"In the 2017 Thematic Workshop on Transparency,²⁸ organized by the Secretariat, one particular session focused on national experiences and best practices in public consultations. This session highlighted relevant international work on models and mechanisms for public consultation ~~in~~ when developing SPS regulations-rulemaking, with speakers from the OECD, the World Bank and Malaysia, which provided both a national and an APEC perspective. One key recommendation was to find ways to align domestic consultation processes with those required by the WTO in order to maximize the benefits of comments received from abroad. Having a single, unified website or portal was also highlighted as being useful in conducting and managing a consultative process."*

21.6. In relation to paragraph 10.9, Canada suggests the following revision:

- a. *"In 2019, the United States raised a new issue regarding the Codex task force on antimicrobial resistance. ~~Also in 2019,~~ the following previously raised issues were discussed again: (i) EU concerns regarding ASF restrictions not consistent with the OIE international standard; (ii) EU and US concerns regarding HPAI restrictions not consistent with the OIE international standard; (iii) US concerns regarding BSE restrictions not consistent with the OIE international standard; and (iv) US concerns regarding the use of the Codex international standard on glyphosate."*

21.7. In relation to paragraphs 11.2 and 11.3, Canada suggests the following revision if requests for observer status will be considered as part of the June 2020 meeting.

- a. *"~~...March 2020~~ next Committee meeting."*

21.8. In relation to the reference in paragraph 12.32 to "the new Regulation on Veterinary Medicinal Products", Canada suggests that footnote 56 be related to this section of the report, since the STC is specific to the European Union's measure.

21.9. In relation to paragraph 19.31, please revise, Canada was not a presenter at this thematic session:

- a. *"... The thematic session also benefitted from presentations from Chile, the European Union, and the United States ~~and Canada~~."*

21.2 European Union

21.10. Regarding [G/SPS/W/313/Rev.2](#) and [G/SPS/W/313/Rev.2/Add.1](#), we have no further comments on the text. We understand the temporal scope of the report is 2014-2019. We would be interested in the factual report including a reference to EU GEN document on Technical Assistance (G/SPS/GEN/1139/Add.5). Although circulated prior to the meeting of March, the report covers the period 2017-2018.

21.3 Turkey

21.11. As the SPS working group of Turkey, we would like to inform you that we have no comments on the documents.

21.4 United States

21.12. Please refer to the comments from the United States on [G/SPS/W/313/Rev.2/Add.1](#) in document [G/SPS/W/326](#).

²⁸ See section 19.5 for additional information on the Thematic Workshop on Transparency.