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Committee on Sanitary and Phytosanitary Measures

Original: English

US RESPONSE TO INDIA'S QUESTIONS IN [G/SPS/W/318/REV.2](#) (SECTION 11.3)

SUBMISSION BY THE UNITED STATES

The following communication, received on 17 August 2020, is being circulated at the request of the delegation of the United States.

As part of the discussions under the Fifth Review¹, several Members jointly submitted proposals on fall armyworm² for consideration by the SPS Committee. In the Committee's discussions on the draft recommendations for the Fifth Review Report, India raised various questions (in document [G/SPS/W/318/Rev.2](#), section 11.3) on the fall armyworm recommendations. For transparency purposes, the responses that were earlier submitted to India by the United States on these questions are provided below in italics.

1.1. In document [G/SPS/W/318/Rev.2](#) (section 11.3), India submitted the comments below:

"11.3. 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):

- 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: ..."

Response from the United States:

We agree with India on the desirability of further deliberations in the Committee on the concepts outlined in [G/SPS/W/317](#). The third recommendation for fall armyworm in [G/SPS/W/324/Rev.1](#) encourages Members to continue the discussion of these concepts in the Committee, and where appropriate, in the working group on approval procedures proposed by Canada.

1.2. India submitted the following question ([G/SPS/W/318/Rev.2](#), section 11.3):

"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?"

¹ At its June 2020 regular meeting, the Committee adopted, on an *ad referendum* basis, the Report of the Fifth Review of the Operation and Implementation of the SPS Agreement. No objections to the adoption of the Report were received by the deadline of 31 July 2020. The adopted Report was circulated as [G/SPS/64](#) and [G/SPS/64/Add.1](#) on 3 August 2020.

² An initial proposal ([G/SPS/W/305](#)) was submitted by Brazil, Kenya, Madagascar, Paraguay, the United States and Uruguay, followed by a subsequent proposal ([G/SPS/W/317](#)) from Brazil, Kenya, Paraguay and the United States on 9 July 2019 entitled *Enabling Access to Tools and Technologies: Towards Safer and More Sustainable Agriculture through Regulatory Collaboration*.

Response from the United States:

The concepts are voluntary. Paragraph 1.3 of [G/SPS/W/317](#) states: "The objective of this follow-on submission is to provide an initial compilation of concepts that support collaboration at the regional and international level and that can be employed, on a voluntary basis, to improve and streamline regulatory processes, while safeguarding human, plant and animal health. Such a compilation could serve as a resource, in particular, for authorities with capacity constraints to help identify regulatory efficiencies that can lead to greater and faster access to safe tools and technologies to manage FAW and other SPS challenges".

1.3. India submitted the following question ([G/SPS/W/318/Rev.2](#), section 11.3):

"ii. Is the list of concepts exhaustive or is it merely an indicative/inclusive one?"

Response from the United States:

As stated above, the objective of [G/SPS/W/317](#) is to lay out an initial compilation of concepts that "could productively be a subject of further Committee discussion" per paragraph 1.4.

1.4. India submitted the following question ([G/SPS/W/318/Rev.2](#), section 11.3):

"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?"

Response from the United States:

As noted above, [G/SPS/W/317](#) provides "an initial compilation of concepts that support collaboration at the regional and international level and that can be employed, on a voluntary basis, to improve and streamline regulatory processes, while safeguarding human, plant and animal health."
