



**Committee on Sanitary and Phytosanitary Measures**

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

OVERVIEW OF PAPERS AND PROPOSALS SUBMITTED BY MEMBERS

*Note by the Secretariat<sup>1</sup>*

Members have submitted the following proposals and suggestions for consideration during the Fifth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures:

**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<sup>2</sup> (G/SPS/W/292/Rev.4)**

1.1. The Committee should play a constructive role in addressing the broad range of MRL-related issues that are currently having a significant impact on trade in food and agricultural products. The submission includes several recommendations for incorporation into the Fifth Review Report in order to advance work in the Committee on trade-related issues on MRLs. These recommendations cover the following themes: (i) enabling JMPR to better respond to increased demand and monitor progress on new Codex MRLs; (ii) strengthening notification practices of Members for greater transparency and predictability on MRLs; (iii) reporting to the Committee on international and regional activities on MRLs; (iv) collaborating on solutions for MRLs for minor use and specialty crops; and (v) discussing the role of the Committee in increasing coordination and harmonization.

**2 Australia (G/SPS/W/299)**

2.1. The Committee should explore the impediments to the application of the concept and practices of equivalence to manage SPS risks in trade. The submission includes a suggestion that the SPS Committee could expand on existing guidance on recognition of equivalence (G/SPS/19/Rev.2) 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. In addition, the submission recommends that the Fifth Review should draw on the existing and ongoing work of the ISSBs.

**3 Benin, Burkina Faso, Burundi, The Gambia, Ghana, Kenya, Madagascar, Morocco, Nigeria, the United States and Zambia (G/SPS/W/297)**

3.1. The Committee should examine how to strengthen national SPS committees to enhance coordination at the national, regional and international levels. The submission includes a recommendation for a workshop or thematic session to be held in late 2018 or early 2019 in order to exchange experiences on several identified topics related to national SPS committees. The topics identified for further discussion are: (i) the mechanism for establishment and composition of national SPS committees; (ii) the role of the private sector in advising or providing input to

<sup>1</sup> 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.

<sup>2</sup> 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.

national SPS committees; (iii) the procedures for developing national SPS strategies and positions in regional and international organizations; (iv) the use of established information exchange mechanisms; and (v) the role of national SPS committees in advocacy. The submission also indicates that, following the Committee's examination of these matters, other Members' views would be welcomed as to whether a "good practices" document would be useful to Members.

#### 4 Brazil (G/SPS/W/300)

4.1. The Committee should review the notification procedures under the SPS Committee in order to address the challenges arising from measures not clearly fitting within the scope of the SPS or TBT Agreement. In particular, the Committee should review the practices guiding the notification of the measure under one or both of the Agreements, in order to enhance predictability and transparency. The submission includes a recommendation to organize thematic sessions and workshops, with a view to developing practical guidelines for notifications.

#### 5 Brazil (G/SPS/W/301)

5.1. The SPS Agreement provides a solid base for the treatment of regulatory issues in the area of trade in agricultural products, but it is necessary to reinforce its features to ensure the attainment of its objectives. In particular, the Committee should discuss the following issues, with a view to contributing to possible concrete results:

- (i) **Scientific justification (Article 2.2) and risk assessment** – the Committee should reaffirm the scientific basis of the SPS Agreement, thereby limiting the use of SPS measures as an arbitrary and unjustifiable discrimination or a disguised restriction on trade;
- (ii) **Equivalence (Article 4)** – Members should recognize the importance of the Decision (G/SPS/19/Rev.2), commit to follow its provisions and reinforce their commitment to enter into consultations when requested, following Article 4.2 and the procedures described in the Decision itself;
- (iii) **Risk assessment and determination of the appropriate level of SPS protection (Article 5)** – Members could discuss guidelines to ensure that the factors to be taken into account in risk assessment, as provided for in Articles 5.2 and 5.3, are appraised in ways supported by scientific evidence and methods. Members could also discuss ways to avoid the misuse of Article 5.7; and
- (iv) **Regionalization (Article 6)** – Members could consider the option of automatically recognizing a disease status granted by the OIE. A similar recognition by the IPPC should also be encouraged.

#### 6 Canada (G/SPS/W/302)

6.1. The Committee should consider holding a workshop or thematic session on Article 4 (Equivalence) as part of the Fifth Review, in order to provide Members with an opportunity to expand their knowledge of the concept of equivalence. The submission includes various elements which could be examined by Members in the workshop or thematic session: the equivalence obligations in the SPS Agreement; the guidance provided in the *Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures* (G/SPS/19/Rev.2); the jurisprudence relating to Article 4 in decisions of the Dispute Settlement Body; the work of the ISSBs on developing international standards, guidelines and recommendations referring or relating to equivalence; Members' experience implementing the concept of equivalence; as well as any best practices that can be shared concerning the implementation of the obligations, guidelines or recommendations on equivalence.

#### 7 The European Union (G/SPS/W/298)

7.1. The Committee should examine the topic of regionalization (pest- and disease-free areas) and ensure that any further work of the SPS Committee on regionalization would build on the on-going work of the international standard-setting bodies, and on WTO jurisprudence. The submission includes specific proposals for action by the SPS Committee: (i) invite the OIE to share with the SPS Committee the outcome of its on-going work in relation to regionalization and trade

facilitation; (ii) invite the IPPC to conduct a similar survey, and to share information about its on-going activities and about any experience it may have about the implementation of its standards in relation to pest-free areas; (iii) with the assistance of the WTO Secretariat, look at recent WTO jurisprudence on regionalization both in the animal health and plant health domains; and (iv) examine the Guidelines on Article 6 (G/SPS/48) in order to assess their effectiveness, to what extent they are actually followed by Members and, if needed, identify areas which could be improved.

## **8 The United States**

8.1. The United States has also indicated interest in examining the following topics under the Fifth Review: regionalization, transparency, Annex C, fall armyworm, and risk analysis (including risk communication). Proposals on regionalization and fall armyworm are forthcoming.

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**ANNEX I: LIST OF TOPICS AND PROPOSALS**

<b>Members</b>	<b>ALOP, Risk Assessment and Science</b>	<b>Annex C</b>	<b>Equivalence</b>	<b>National SPS Committees</b>	<b>Notification Procedures/ Transparency</b>	<b>Pesticide MRLs</b>	<b>Regionalization</b>	<b>Other Topics</b>
Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Japan, Kenya, Madagascar, New Zealand, Panama, Paraguay, Peru, Uganda, United States and Uruguay	-	-	-	-	-	<i>Joint submission - G/SPS/W/292/ Rev.4</i>	-	-
Australia	-	-	G/SPS/W/299	-	-	<i>Joint submission - G/SPS/W/292/ Rev.4</i>	-	-
Benin, Burkina Faso, Burundi, The Gambia, Ghana, Kenya, Madagascar, Morocco, Nigeria, United States and Zambia	-	-	-	<i>Joint submission - G/SPS/W/297</i>	-	-	-	-
Brazil	G/SPS/W/301	-	G/SPS/W/301	-	G/SPS/W/300	<i>Joint submission - G/SPS/W/292/ Rev.4</i>	G/SPS/W/301	-
Canada	-	-	G/SPS/W/302	-	-	<i>Joint submission - G/SPS/W/292/ Rev.4</i>	-	-
European Union	-	-	-	-	-	-	G/SPS/W/298	-
United States	Topic of interest: risk analysis ( <i>including risk communication</i> )	Topic of interest	-	<i>Joint submission - G/SPS/W/297</i>	Topic of interest	<i>Joint submission - G/SPS/W/292/ Rev.4</i>	Topic of interest ( <i>Proposal forthcoming</i> )	Topic of interest: fall army worm ( <i>Proposal forthcoming</i> )