



Committee on Sanitary and Phytosanitary Measures

**REVIEW OF THE OPERATION AND IMPLEMENTATION
OF THE SPS AGREEMENT**

DRAFT REPORT OF THE COMMITTEE

Note by the Secretariat¹

Revision

INTRODUCTION

Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement") provides that "the Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises". A First Review of the Agreement was completed in March 1999.²

At the Fourth Session of the Ministerial Conference, Ministers instructed the Committee to review the operation and implementation of the Agreement at least once every four years.³ The Second Review of the Agreement was completed in July 2005,⁴ the Third Review in May 2010,⁵ and the Fourth Review in July 2017.⁶ At its March 2018 meeting, the Committee adopted a procedure and timetable to undertake the Fifth Review of the Agreement.⁷

In accordance with the procedures adopted by the Committee, the draft report of the Fifth Review was first circulated for discussion at the 18-19 July 2019 meeting of the SPS Committee.⁸ A subsequent revision was then prepared for discussion at the November 2019 meeting of the SPS Committee.⁹ The present revision takes into account inputs received from Members.¹⁰ It will be discussed at the SPS Committee meeting on 19-20 March 2020.

The draft report of the Fifth Review is comprised of two sections: (i) **Part A**: Proposals submitted under the Fifth Review – which contains the list of the proposals submitted under the Fifth Review, as well as information on the discussions and thematic sessions that have taken place on the various

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 [G/SPS/12](#).

³ [WT/MIN\(01\)/17](#).

⁴ [G/SPS/36](#).

⁵ [G/SPS/53](#).

⁶ [G/SPS/62](#). In accordance with the procedures for the Fourth Review, the Committee considered the revised report of the Review for adoption for the first time at its October 2014 meeting. After submission of Members' comments and suggestions, as well as further discussions in several Committee meetings, the report was subsequently adopted in July 2017. The report of the Fourth Review largely reflects the work of the Committee until October 2014, except where stated otherwise.

⁷ [G/SPS/W/296/Rev.1](#).

⁸ [G/SPS/W/313](#) and [G/SPS/W/313/Corr.1](#). This version of the report did not contain any draft recommendations.

⁹ [G/SPS/W/313/Rev.1](#). This subsequent revision contained draft recommendations, based on Members' proposal, written inputs ([G/SPS/W/318/Rev.3](#)), and discussions in the SPS Committee meetings ([JOB/SPS/2/Rev.4](#) and [JOB/SPS/2/Rev.4/Corr.1](#)) and consultations.

¹⁰ A compilation of Members' draft recommendations and comments is available in [G/SPS/W/318/Rev.3](#). In addition, some Members proposed specific changes to the structure and content of the draft report. These comments are compiled in [G/SPS/W/315/Rev.1](#).

topics. In addition, this section contains information on the areas identified for further work by the SPS Committee, including any recommendations; and (ii) **Part B**: Factual report – which is based on the draft background document, which was initially circulated as [G/SPS/GEN/1612](#) on 4 May 2018.¹¹

¹¹ Part B is contained in an addendum to the Report of the Review.

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¹² [G/SPS/W/313/Rev.2/Add.1](#).

PART A – PROPOSALS SUBMITTED UNDER THE FIFTH REVIEW

1 INTRODUCTION

1.1. In the Fifth Review, the Committee has considered proposals and suggestions submitted by Members on the following topics:

- Appropriate level of protection, risk assessment and science;
- Control, inspection and approval procedures (Annex C);
- Equivalence;
- Fall armyworm;
- National SPS coordination mechanisms;
- Notification procedures and transparency;
- MRLs for plant protection products;
- Regionalization;
- Role of Codex, IPPC and OIE in addressing STCs; and
- Voluntary third-party assurance schemes.

1.2. Part A of this document contains information on the discussions that have taken place in the SPS Committee and thematic sessions on the various topics identified above.¹³ Annex I provides a list of the topics and proposals submitted under the Fifth Review.¹⁴

2 APPROPRIATE LEVEL OF PROTECTION, RISK ASSESSMENT AND SCIENCE

2.1. Brazil indicated interest in discussing the appropriate level of protection (ALOP), risk assessment, and the scientific basis of SPS measures required by the SPS Agreement in its preliminary submission.¹⁵ While recognizing that the SPS Agreement provides a solid base for the treatment of regulatory issues in the area of trade in agricultural products, Brazil was of the view that it was necessary to reinforce its features to ensure the attainment of its objectives.

2.2. In relation to scientific justification (Article 2.2) and risk assessment, Brazil indicated that the Committee should reaffirm the scientific basis of SPS measures required by the SPS Agreement, thereby limiting the use of SPS measures in a manner that would constitute arbitrary or unjustifiable discrimination or a disguised restriction on trade. With respect to risk assessment and determination of the appropriate level of SPS protection (Article 5), Brazil indicated that 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, were appraised in ways supported by scientific evidence and methods. Members could also discuss ways to avoid the misuse of Article 5.7.

2.3. Some Members indicated interest in a further elaboration of Brazil's proposal, while also flagging concerns. The United States expressed interest in the topic of risk analysis, including risk communication, noting that the Background Document for the Fifth Review¹⁶ contained valuable information on relevant Committee discussions.

2.4. Subsequently Brazil introduced a more detailed proposal¹⁷ on risk assessment and appropriate level of protection. Brazil suggested that Members be urged to recognize that risk assessment, as regulated under Article 5.1, was the main criteria and means by which scientific justification was attained for the adoption and implementation of SPS measures. It also suggested that Members specify in relevant notifications that the notified measures were taken under Article 5.7, stating their

¹³ The Chairperson's report of the informal meetings on the Fifth Review is contained in [JOB/SPS/2/Rev.4](#) and [JOB/SPS/2/Rev.4/Corr.1](#).

¹⁴ A summary of all submitted proposals and papers is available in [G/SPS/GEN/1625/Rev.5](#). In addition, comments that have been submitted on these proposals and papers are available in [G/SPS/GEN/1655](#) and [G/SPS/GEN/1661](#).

¹⁵ [G/SPS/W/301](#).

¹⁶ [G/SPS/GEN/1612](#).

¹⁷ [G/SPS/W/308](#), which replaced the relevant sections in [G/SPS/W/301](#).

views on the insufficiency of scientific evidence in relation to the issue that gave origin to the measure, and that the notifying Member had sought and would continuously seek additional information in order to review the measure within a reasonable period of time. The Committee should also ask Codex Alimentarius, as well as other relevant international organizations, to work on the procedural steps necessary for the adoption and application of provisional measures, given the impossibility of establishing a proper risk assessment. Brazil recognized that this was a sensitive issue and indicated openness to dialogue.

2.5. In Committee discussions, Brazil referred to the practical differences in the definition of risk assessment in the SPS Agreement, and that of the International Standard-Setting Bodies (ISSBs), as well as in the principle of provisional measures embodied in Article 5.7.

2.6. One Member emphasized the importance of Article 5.1 in implementing the scientific justification principle of the SPS Agreement, and further indicated that it did not agree with the suggestions regarding notifications contained in paragraph 2.1(b) of Brazil's proposal, which in its view went beyond the obligations of the Agreement and created an additional burden.

2.7. Other Members noted the importance of the scientific justification principle and the challenging nature of discussing this topic, while indicating their willingness to have further discussions on certain elements of the proposal.

2.8. Brazil recognized that the recommendations in its proposal had not achieved consensus, and called on Members to engage in discussions on the principles, as well as to provide additional inputs.

2.9. One Member highlighted that the SPS Agreement allowed for some ambiguities in the application of Articles 5.1 and 5.7, since Members at the time of adoption of measures did not need to specify which provision they were invoking. Another Member highlighted the need to include the concept of consistency in the discussion, and in particular the Guidelines to Further the Practical Implementation of Article 5.5 ([G/SPS/15](#)), which provided several examples of how to achieve consistency in ALOPs.

2.10. One Member also suggested inviting the ISSBs to provide information on their standards, guidelines and recommendations developed in relation to insufficient evidence. IPPC indicated its appreciation for the Committee's work on scientific evidence in emergency situations and underscored that risk assessment was a basic tool for standard-setting and implementation.

2.11. Brazil reiterated that its proposal was aligned with the SPS Agreement. Its purpose was not to place additional burdens on Members, but to provide a unified understanding of the SPS Agreement, highlighting that transparency should be key when implementing measures based on Article 5.7.

2.12. In discussing the draft recommendations contained in [G/SPS/W/313/Rev.1](#), one Member proposed rewording the draft recommendation to include the suggestion that the June 2020 Committee workshop focus on risk. Several Members supported this suggestion, with one Member further suggesting that the 2020 workshop could also address the issues raised in Brazil's proposal ([G/SPS/W/308](#)), while recalling its previous written comments on the proposal.¹⁸

2.13. Brazil also drew attention to the recommendations contained in its proposal, indicating that it would reflect on possible new language to address the issues covered in its recommendations. One Member indicated interest in further discussing the issues addressed in Brazil's proposal, but could not endorse the recommendations as currently drafted. Another Member proposed working with Brazil to capture Brazil's concerns in the wording of the recommendations.

2.14. Canada subsequently submitted a written suggestion that the Committee should hold a workshop in June 2020 on risk assessment, risk management and risk communication.

¹⁸ [G/SPS/GEN/1655](#).

2.15. *Recommendations:*

- *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.*

3 CONTROL, INSPECTION AND APPROVAL PROCEDURES (ANNEX C)

3.1. The SPS Committee held a Workshop on Control, Inspection and Approval Procedures (Annex C) in July 2018.¹⁹ The main objective of the workshop was to bring together officials responsible for the implementation of the SPS Agreement, as well as the relevant international standard-setting bodies and other international organizations, for discussion and experience-sharing on developments, challenges and practices in implementing Article 8 and Annex C of the SPS Agreement. Through presentations, practical case stories and discussions, the workshop aimed to expand Members' understanding of the relevant WTO Agreements and provisions; highlight the economic rationale for strengthening the implementation of Annex C to reduce trade transaction costs; and explain how the WTO Trade Facilitation Agreement (TFA) linked to and complemented the SPS Agreement.

3.2. The United States expressed interest in continuing to work on this topic. Canada proposed to hold a thematic session on approval procedures in November 2019, to provide Members with an opportunity to discuss issues concerning the implementation of Article 8 and Annex C.²⁰ Canada proposed that such a thematic session could also address areas such as undue delays and transparency procedures.

3.3. Members welcomed Canada's proposal, and several noted challenges faced in the trade of agricultural products due to approval procedures which did not follow the principles of the SPS Agreement. The Committee agreed to hold a thematic session on approval procedures in November 2019. Members were asked to submit inputs on the programme and speakers, following which the Secretariat would prepare a first draft of the programme for circulation and discussion in the July 2019 Committee meeting. The Committee subsequently discussed a draft version of the programme, submitted by Canada.²¹

3.4. Members indicated interest in the thematic session, with some expressing support for its format which would allow experience-sharing from an importing and exporting Members' perspective, as well as ISSBs. In addition, some Members suggested having a separate section in the thematic session to deal specifically with undue delays.

¹⁹ A summary report of this workshop is available in document [G/SPS/R/91](#). The programme is also available in document [G/SPS/GEN/1613/Rev.2](#). Presentations from the session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop910718_e.htm.

²⁰ [G/SPS/W/310](#).

²¹ [G/SPS/GEN/1704](#).

3.5. One Member further proposed that the Committee could consider developing guidelines for approval procedures, as this was one of the few provisions of the SPS Agreement which lacked guidance.

3.6. The OIE indicated its willingness to participate in the thematic session, but requested Canada to provide clarification on the link between OIE work and approval procedures, noting that pre-approval procedures were clear in the context of Codex work, but not so for the OIE. Canada indicated that it would first consult internally and then follow-up bilaterally with OIE to provide the requested clarification.

3.7. Further to the discussions, the Committee held a Thematic Session on Approval Procedures on 5 November 2019.²² Building upon the July 2018 Workshop on Control, Inspection and Approval Procedures, the purpose of the thematic session was to explore concepts within Article 8 and Annex C of the SPS Agreement, as they relate to approval procedures, including undue delays, transparency and information requirements. The session focused on a broad array of themes, including pre-market approvals, approval of biotech products, domestic regulations and work of international standard-setting bodies. Various perspectives from Members, international standard-setting bodies and the private sector were presented and possible opportunities for cooperation among these players were explored. One Member indicated appreciation for the webcasting of the thematic session.

3.8. In discussing the draft recommendations contained in [G/SPS/W/313/Rev.1](#), some Members indicated that they were reflecting on possible further recommendations based on the discussions at the thematic session.

3.9. Canada subsequently submitted a proposal for the Committee to continue its work on approval procedures through the establishment of an electronic working group open to the participation of all Members and Observers.²³ The submission indicates that the electronic working group would continue to examine the topic of approval procedures, including pre-market product approvals, and further consider the Committee's role. In particular, the electronic working group would: (1) explore the key challenges of approval procedures that impact international trade and consider challenges that the Committee should seek to address; (2) examine the principles of approval procedures that facilitate international trade while meeting the importing Member's appropriate level of sanitary or phytosanitary protection and consider the Committee's role in highlighting these principles; (3) consider the available tools and best practices to enhance the implementation of the obligations of the SPS Agreement as they apply to approval procedures; and (4) give consideration to possible future work of the Committee on approval procedures.

3.10. The submission further indicates that the electronic working group would report on its work during the SPS Committee meetings to keep the Committee informed of its deliberations. While working primarily electronically, the working group may meet, as appropriate, as a physical working group on the margins of the SPS Committee meetings, such as at the informal SPS Committee meeting. The submission proposes that the electronic working group on approval procedures should commence its work following the March 2020 SPS Committee meeting.

3.11. Recommendations:

- *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:*

²² The programme is available in document [G/SPS/GEN/1704/Rev.1](#). Presentations from the session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop05112019_e.htm.

²³ [G/SPS/W/321](#).

- 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.*

4 EQUIVALENCE

4.1. Australia proposed that the Committee expand on its existing guidance on recognition of equivalence in relation to systems approaches for achieving the importing Members' appropriate level of protection.²⁴ In particular, the proposal suggested that the Committee explore the impediments to the application of the concept and practices of equivalence to manage SPS risks in trade. The Committee could build on its *Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures*²⁵, specifically in relation to the determination of equivalence of a systems approach, and draw on existing and ongoing work of the ISSBs.

4.2. Brazil proposed that Members recognize the importance of the Committee Decision on Equivalence, 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.²⁶ Canada proposed holding a workshop or a thematic session on equivalence,²⁷ and suggested including topics such as systems approaches.²⁸ Several Members supported Canada's proposal to hold a thematic session or workshop on equivalence and further suggested that such an event could also address the topics raised by Australia and Brazil, as well as help to identify priorities and needs. Many Members were in favour of sharing best practices and experiences in implementing Article 4 before developing additional guidance.

4.3. The Committee decided to hold a two-part thematic session on equivalence, including a first part to introduce the concept of equivalence and the international guidance available from the WTO and ISSBs; and a second part to share the experiences of Members with the recognition of equivalence.

4.4. The first part of the thematic session on equivalence was held in October 2018,²⁹ where the Secretariat provided an overview of the provisions of the SPS Agreement on equivalence (Article 4) and the relevant guidelines, as well as relevant dispute settlement reports. The thematic session also included a presentation from the Secretariat on equivalence from a TBT perspective. The ensuing discussions covered SPS topics related to the time-frame for expedited responses, the use of Committee guidelines in disputes, responding to equivalence requests, criteria for determining the appropriate level of protection, and the lack of equivalence notifications, among others. In addition, the discussions focused on the differences in the coverage of equivalence in the SPS and TBT Agreements, and the lessons to be learned from discussions in the SPS and TBT Committees.

4.5. Representatives of Codex, IPPC and OIE explained their views of how the concept of equivalence was applied in their organizations' respective areas and identified what the representatives considered to be the relevant international standards and guidelines. In addition, the OIE provided information on the level of implementation of equivalence and equivalence arrangements by its members, including the challenges faced in making an equivalence determination, as reported in a recent survey. The discussions covered the ISSB representatives' views on: the need to ensure the consistency of the work being undertaken by the ISSBs with the

²⁴ [G/SPS/W/299](#).

²⁵ [G/SPS/19/Rev.2](#).

²⁶ [G/SPS/W/301](#).

²⁷ [G/SPS/W/302](#).

²⁸ [G/SPS/W/302/Rev.1](#).

²⁹ The programme is available in document [G/SPS/GEN/1640/Rev.1](#). Presentations from the session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop301018_e.htm.

WTO Agreements; the challenges of having a common definition of equivalence; the lack of consistency in wording across organizations; the situations in which a systems approach should be used; and the link between recognition of disease-free areas and equivalence determinations. The Secretariat provided background information on the genesis of the equivalence Decision and underscored the collaboration between the SPS Committee and the ISSBs at the time.

4.6. Building on Part 1 of Thematic Session on Equivalence, the proponents noted several areas for further discussion. These included the notification of equivalence and use of the formal equivalence agenda item; exploring certain concepts in more detail; improving the predictability of equivalence; and discussing the Committee Decision. One Member observed that the first part of the thematic session had served to untangle some of the issues identified in its written comments.³⁰

4.7. The second part of the Thematic Session was held in March 2019.³¹ Members shared their experience in applying equivalence at different levels to individual measures, groups of measures, or entire control systems for particular commodities. In addition, other approaches to equivalence were presented from an academic and regional perspective. In the discussions, Members agreed that equivalence was an important trade-facilitating tool.

4.8. Some speakers highlighted that the principle of equivalence implied reaching a similar or comparable end-result, without requiring sameness of methods or procedures. In this context, the role of the 'appropriate level of protection' was highlighted several times as the relevant benchmark or comparator against which the health outcome of alternative processes or methods should be assessed. The proponents indicated their intention to reflect on the discussions at the thematic sessions and consider possible next steps.

4.9. Australia further acknowledged the wealth of information shared in the thematic sessions, which had also highlighted differences in the experiences. Australia noted that there might still be a need to review the existing guidance, especially in relation to systems approaches, but also recognized that Members did not have an appetite to do so.

4.10. Australia also drew attention to the references to equivalence notifications in the Workshop on Transparency and Coordination, and suggested a recommendation to encourage Members to notify equivalence agreements. Australia further highlighted the usefulness of keeping up to date with ongoing Codex work on equivalence.

4.11. Brazil reaffirmed the importance of the Committee's work on equivalence and indicated its concerns with the slow progress made in the harmonization of approaches, while further noting that Members' effective implementation of the guidelines could be enhanced. Brazil underscored Members' obligations under Article 4.2 related to holding consultations on equivalence agreements, when requested. Another Member highlighted the low level of implementation of the equivalence principle and lack of related information, and indicated interest in Australia's paper on the systems approach, while noting Codex guidelines in the food safety area.

4.12. *Recommendations:*

- *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*

³⁰ [G/SPS/GEN/1655](#).

³¹ The programme is available in document [G/SPS/GEN/1675/Rev.1](#). Presentations from the session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop18032019_e.htm.

³² [G/SPS/19/Rev.2](#).

development and discussion of international standards, guidelines, and recommendations on the issue of equivalence.

5 FALL ARMYWORM

5.1. Brazil, Kenya, Madagascar, Paraguay, the United States and Uruguay proposed using fall armyworm as a case study to discuss the application of the principles in the SPS Agreement to enable greater access to tools and technologies in integrated pest management strategies.³³ The proposal recommended forming a working group to undertake several activities.

5.2. Several Members supported the proposal, including the formation of a working group to share experiences and help to identify the ways in which application of the principles of the SPS Agreement could support greater access and to collect information on collaborations among Members that could also support improved access to tools and technologies. One Member indicated that it was still studying the proposal and that it reserved its position. Another Member raised questions about the link to intellectual property issues made in the proposal, and the link to the TRIPS Agreement, also noting that biotechnology was a sensitive subject, and that the development of prescriptive guidelines in this area could interfere with Members' policy space. Kenya intervened to say that these concerns would be taken into account by the proponents.

5.3. The Committee decided to hold a thematic session on fall armyworm in March 2019, and Brazil, Kenya, Madagascar, Paraguay, the United States and Uruguay circulated a proposed agenda for this session.³⁴ The Thematic Session on Fall Armyworm was held on 19 March 2019³⁵, to discuss the role of the WTO SPS Agreement in enabling access to tools and technologies and facilitating international trade, using fall armyworm as a case study. The session provided information on the nature and the impact of the spread of fall armyworm across the globe, the challenges for smallholders, and the tools and technologies available. The session also relayed information on the critical need to improve host plant resistance. Global, regional and domestic approaches to enable regulatory frameworks to facilitate access to safe and effective tools and technologies were presented. Members shared their experiences in dealing with fall armyworm, highlighting their successes and challenges.³⁶

5.4. Paraguay and Uruguay subsequently noted that research had allowed the development of technology kits, which could be effective in other regions such as Africa. They suggested that the Committee should focus on how to move forward to assist countries in need of these technology kits, and how the Committee could effectively support this approach, in light of the principles of the SPS Agreement in formulating and implementing SPS measures. They also underscored the importance of collaborating on regulatory approaches.

5.5. The first open-ended working group meeting on fall armyworm was held in March 2019, where Members were invited to share their views on potential next steps. Members reflected on the experiences shared in the thematic session. The co-sponsors indicated their intention to have an open and collaborative process in exchanging ideas so that the Fifth Review Report would fully reflect the views of the Committee.

5.6. Issues discussed at this meeting included the development and implementation of guidelines in order to respond to the needs of farmers impacted by the pest; the role of the ISSBs in developing a collaborative action plan, and the possible opportunity to contribute to IPPC's International Year of Plant Health 2020; the role of the SPS Committee; and facilitation of technology transfer among Members. One of the proponents clarified that the suggested role of the working group was to compile rather than develop guidelines, and to reflect the experiences of Members that could be beneficial to others in their national and regional work in facilitating access to tools.

³³ [G/SPS/W/305](#).

³⁴ [G/SPS/W/309](#) and [G/SPS/W/309/Corr.1](#).

³⁵ The programme for this thematic session is contained in [G/SPS/GEN/1676/Rev.1](#). Presentations from the session are also available at: https://www.wto.org/english/tratop_e/sps_e/workshop19032019_e.htm.

³⁶ See the summary report of the March 2019 SPS Committee meeting for an overview of the thematic session ([G/SPS/R/94](#)).

5.7. Subsequently, Brazil, Kenya, Paraguay and the United States submitted a new proposal³⁷ providing 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. The concepts outlined in the submission are: (i) data portability; (ii) common application dossiers; (iii) joint risk assessments; (iv) adaptation to regional conditions; (v) unilateral recognition; (vi) mutual recognition; (vii) familiarity; (viii) history of safe use; (ix) equivalence; (x) harmonization; and (xi) emergency use authorization. The submission proposes that these concepts could productively be a subject of further Committee discussion in connection with fall armyworm and could be assembled into a Committee document, connected to the Fifth Review, on approaches to streamline regulatory processes with respect to fall armyworm.

5.8. Brazil further underscored the importance of the concept of regional adaptation, while noting that there were diverse approaches to dealing with FAW and that biological methodologies were necessary tools to consider. Kenya recognized that fall armyworm could compromise food security and emphasized the importance of having access to available information and technology in order to address the issue. Paraguay noted the importance of regional and international efforts to improve inspection and testing of products, as well as increased access to tools.

5.9. Several Members indicated that they needed time to assess the proposal. One Member recognized that the outlined concepts tended to be consistent with regulatory systems that support innovation. Another Member indicated that the proposal outlined some interesting concepts and courses of action which could assist in the monitoring of pests. One Member also indicated interest in exploring the compilation of concepts and its potential extrapolation to address regulatory challenges in agricultural practices. Another Member reserved its right to provide comments.

5.10. One Member provided additional information in relation to data portability, noting that the OECD had established principles which could provide a common basis for cooperation among the competent authorities of Members. In addition, Members were encouraged to share their approaches in implementing emergency use authorizations.

5.11. One Member and an observer organization underscored the impact of the pest in African countries, and highlighted the support received from FAO through specific projects, while calling for strong approaches, sustainable mechanisms, new technologies, as well as strengthened regional and national surveillance systems to address the problem. Members were also informed of a report by the International Institute of Tropical Agriculture (IITA) scientists which had identified a new type of armyworm in West Africa.

5.12. One Member requested clarification on the relationship of the proposal to potential recommendations for the Fifth Review. The United States clarified that it continued to be open to ideas from Members and indicated that its initial thoughts on moving forward included the extrapolation of the initial compilation of concepts into an illustrative, voluntary list.

5.13. The IPPC had a positive view of the SPS Committee's focus on FAW and further noted the important role that the Committee could play in bringing attention to this pest. IPPC provided background information in relation to the origin and spread of the disease, and also emphasized the importance of information-sharing, innovative work (new technology), and cooperation (at the global, regional and national level) in addressing the issue.

5.14. In discussing the draft recommendations contained in [G/SPS/W/313/Rev.1](#), the United States, supported by Brazil, highlighted the usefulness of the proposed indicative, voluntary, non-exhaustive list of concepts in conformity with the SPS Agreement. The United States provided some initial responses to the questions submitted by a Member on particular aspects of the draft recommendations, with respect to the voluntary or prescriptive nature of the concepts; the exhaustive or indicative/inclusive nature of the concepts; and the legal basis for the concepts under the SPS Agreement.³⁸ The United States announced that the responses would be circulated in writing and in response, the Member indicated that it looked forward to the written clarifications, noting that it might have follow-up questions after reviewing the written clarifications. Another Member shared the same concerns and questioned the link between the proposed concepts and the Agreement's

³⁷ [G/SPS/W/317](#).

³⁸ Paragraph 4.3 of [G/SPS/W/318/Rev.1](#).

legal obligations, and also noted that while the initial proposal had addressed fall armyworm, the focus of the latest proposal had shifted. The Member highlighted the limited references to international standards in the proposal and reserved its position with respect to the suggested recommendations in [G/SPS/W/313/Rev.1](#).

5.15. Some Members supported the initiative and indicated interest in using fall armyworm as a case study for the role of the principles of the SPS Agreement in enabling access to tools and technologies. One Member highlighted the value of sharing solutions to these challenges among Members, while another emphasized the need to continue reflecting on the regulatory aspects of certain technologies to address fall armyworm, including solutions such as integrated pest management.

5.16. *Recommendations:*

- *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.*
- *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](#).*

6 NATIONAL SPS COORDINATION MECHANISMS

6.1. Benin, Burkina Faso, Burundi, The Gambia, Ghana, Kenya, Madagascar, Morocco, Nigeria, the United States and Zambia presented a joint proposal on strengthening national SPS committees, suggesting the organization of a thematic session or workshop in late 2018 or early 2019.³⁹ Several Members supported the proposal, highlighting the importance of sharing experiences with national SPS committees. Some Members emphasized that national committees were not the only way to coordinate and suggested enlarging the scope to include other national coordination mechanisms in the event. While the Trade Facilitation Agreement contained an obligation to establish a national committee, the SPS Agreement did not. What mattered was the existence of a functioning national coordination mechanism. The Secretariat reminded Members that the SPS Committee had held a Workshop on Coordination at National and Regional Levels in 2011, and invited Members to consult the materials available on the WTO website.⁴⁰

6.2. The Committee agreed with the Chairperson's suggestion to address national SPS coordination mechanisms in a Workshop on Transparency and Coordination to be held in July 2019. The Secretariat prepared a draft programme,⁴¹ inviting Members to submit comments.

6.3. The Workshop on Transparency and Coordination was held in July 2019,⁴² to exchange experiences with transparency-related coordination, and with broader domestic coordination mechanisms. In particular, an area of focus was the difference in scope between the SPS and TBT Agreements, and notification of measures containing both SPS and TBT elements.

³⁹ [G/SPS/W/297](#).

⁴⁰ Information on this workshop is available at: https://www.wto.org/english/news_e/news11_e/sps_17oct11_e.htm.

⁴¹ [G/SPS/GEN/1694](#).

⁴² A summary report of this workshop is available in [G/SPS/R/96](#). The programme is available in document [G/SPS/GEN/1694/Rev.2](#). Presentations from the session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop15072019_e.htm.

6.4. Several Members indicated that the workshop had provided an opportunity for the sharing of experiences and further encouraged Members to reflect on the ideas from the workshop with a view to generate recommendations.

6.5. One Member also underscored the usefulness of ePing as a communication platform and requested the Secretariat to organize training for Members. An observer organization also underlined the need for training on the submission of notifications and use of the different online platforms, and further urged the Secretariat to examine areas where Members could benefit from training activities.

6.6. In discussing the draft recommendations contained in [G/SPS/W/313/Rev.1](#), the United States noted the depth of the discussions at the July 2019 Workshop and supported the suggestions to request the Secretariat to prepare a collection of good practice documents with inputs from Members, with a focus on the list of topics included in document [G/SPS/W/297](#). Some Members supported the idea of a document on good practices and the overall proposed recommendations, while reiterating the importance of strengthening national coordination mechanisms.

6.7. *Recommendations:*

- *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.*

7 NOTIFICATION PROCEDURES AND TRANSPARENCY

7.1. Brazil proposed that Members exchange views on the notification of measures not clearly fitting only within the scope of the SPS or TBT Agreements, in order to improve transparency and avoid delays in the evaluation of notifications, for example at a workshop or thematic session.⁴³ Members supported the proposal to hold a workshop or thematic session. Brazil clarified that the proposal was mainly to facilitate a broader discussion on notifications under the SPS or the TBT Agreement and did not expressly include the development of guidelines. One Member suggested that the Secretariat could provide information on notification statistics at such an event.

7.2. The Committee decided to hold a Workshop on Transparency and Coordination in July 2019. Brazil noted that both the SPS and TBT Committees would address its proposal as part of their transparency workshops scheduled for summer 2019. Brazil invited Members to collaboratively work in developing the agenda for these sessions.

7.3. The United States agreed with the importance of ensuring appropriate notifications and welcomed the work under the Fifth Review on this topic, including work to promote a shared understanding among Members on the need to notify measures to the appropriate Committee consistent with the definitions contained in the SPS Agreement.⁴⁴

⁴³ [G/SPS/W/300](#).

⁴⁴ [G/SPS/GEN/1655](#).

7.4. The Secretariat circulated a draft programme for the workshop,⁴⁵ developed in coordination with Brazil and TBT colleagues. The draft programme took into account Brazil's proposals in the SPS and TBT Committees.⁴⁶ Members were requested to submit comments and suggest speakers, and Brazil submitted further suggestions.⁴⁷

7.5. One Member reiterated the need to notify relevant measures under both the SPS and TBT Agreements and highlighted the importance of further discussions on these types of measures that fall within the scope of both Agreements. There was a suggestion to upgrade the SPS and TBT information management systems (IMS), as well as ePing, to become an integrated platform to allow Members to submit notifications under both Agreements, as well as to track these notifications in order to ensure the accuracy of research results. Brazil indicated interest in the idea of an automatic procedure for submitting notifications under both Agreements, noting that the feasibility of implementing this feature would have to be checked.

7.6. The Workshop on Transparency and Coordination was held in July 2019,⁴⁸ to exchange experiences with transparency-related coordination, and with broader domestic coordination mechanisms. In particular, an area of focus was the difference in scope between the SPS and TBT Agreements, and notification of measures containing both SPS and TBT elements.

7.7. Several Members indicated that the workshop had provided an opportunity for the sharing of experiences and further encouraged Members to reflect on the ideas from the workshop with a view to generate recommendations.

7.8. Brazil referenced its proposal,⁴⁹ highlighting that these discussions would play a key factor in improving notification systems and overall transparency in the Committee.

7.9. One Member noted that while some Members had close internal coordination on SPS and TBT issues, this was not the case for other Members. As such, Members were encouraged to share the information in [G/SPS/7/Rev.4](#) with their TBT colleagues, as well as to indicate in their notifications whether the SPS regulation had also been notified under another agreement. Another Member further recognized the need for internal coordination on SPS and TBT notifications prior to submission to the WTO, noting that the current practice was for SPS and TBT focal points to separately notify measures.

7.10. One Member also underscored the usefulness of ePing as a communication platform and requested the Secretariat to organize training for Members. An observer organization also underlined the need for training on the submission of notifications and use of the different online platforms, and further urged the Secretariat to examine areas where Members could benefit from training activities.

7.11. Some Members supported the draft recommendation contained in [G/SPS/W/313/Rev.1](#). In addition, Brazil suggested that the recommendation should go further to propose that notifications be submitted simultaneously under both the SPS and TBT Agreements. The Secretariat clarified that the Committee's Recommended Transparency Procedures in document [G/SPS/7/Rev.4](#) already recommended notifying such regulations under both Agreements and queried whether Brazil was suggesting that this be done simultaneously. Brazil confirmed that this was the case.

7.12. Some Members agreed that notifications should be submitted as quickly as possible under both Agreements, even if it might not always be possible to ensure that they would be submitted simultaneously. One Member underscored the difficulties experienced when regulations were only notified under one Agreement, but also had implications under the other Agreement. Another Member suggested addressing the difficulties linked to access to translations of notified regulations, as proposed in its written comments.⁵⁰

⁴⁵ [G/SPS/GEN/1694](#).

⁴⁶ [JOB/TBT/283](#).

⁴⁷ [G/SPS/W/312](#).

⁴⁸ A summary report of this workshop is available in [G/SPS/R/96](#). The programme is available in document [G/SPS/GEN/1694/Rev.2](#). Presentations from the session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop15072019_e.htm.

⁴⁹ [G/SPS/W/300](#).

⁵⁰ Paragraph 6.4 of [G/SPS/W/318/Rev.1](#).

7.13. *Recommendations:*

- *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*

8 MRLS FOR PLANT PROTECTION PRODUCTS

8.1. Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Japan, Kenya, Madagascar, New Zealand, Panama, Paraguay, Peru, Uganda, the United States and Uruguay presented a revised joint proposal on addressing the trade effects of pesticide MRLs.⁵³ The proposal contained several recommendations to advance work in the Committee on trade-related MRLs, for inclusion in the Report of the Fifth Review. The recommendations aim to enable the Joint FAO/WHO Meeting on Pesticide Residues (JMPR) to better respond to increased demand and monitor progress on new Codex MRLs; strengthen notification practices of Members for greater transparency and predictability of MRLs; invite reports to the SPS Committee on international and regional activities on MRLs; enhance collaboration on solutions for MRLs for minor use and specialty crops; and note the role of the Committee in increasing coordination and harmonization.

8.2. Several Members expressed general support for the proposal, but some noted concerns in relation to the additional transparency requirements for pesticide MRLs, which would be burdensome. One Member stressed that the recommendations should be balanced and mutually beneficial. Other Members highlighted the challenges related to minor use pesticides.

8.3. One Member acknowledged the importance of pesticide MRLs and raised a question on the first recommendation in the proposal in relation to the work of JMPR, observing that the Committee was not in a position to discuss the relationship between JMPR and Codex. One of the proponents emphasized that the identified recommendation was addressed to Members, and not the actions of the Committee. Members were being tasked to convey the importance of trade and JMPR's critical role in establishing MRLs to their respective Codex colleagues, through their national coordination mechanisms. The proponent further highlighted that there had been developments since the submission of the paper, in terms of improvements in the functioning of JMPR.

8.4. The United States noted that the information presented in its joint proposal was still relevant, and further indicated that it looked forward to seeing recommendations reflected in the Fifth Review Report. One Member underscored the relevance and importance of discussions on pesticide MRLs, as evidenced by the number of STCs raised within the Committee.

8.5. The United States announced its intention to work with its co-sponsors to update the recommendations contained in the original proposal. In response to Turkey's comments suggesting that Members going beyond international standards share their risk assessments with the relevant ISSB,⁵⁴ the United States explained how Members could submit inputs to the standard-setting process. One Member indicated that it looked forward to seeing the revised recommendations, noting that this proposal had not been discussed extensively during the Review period.

8.6. *Recommendations:*

- *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*

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.

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".

⁵³ [G/SPS/W/292/Rev.4](#). Previous revisions of this proposal were discussed prior to the launch of the Fifth Review.

⁵⁴ Paragraph 7.3 of [G/SPS/W/318/Rev.1](#).

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.*

9 REGIONALIZATION

9.1. In its preliminary submission, Brazil raised some concerns on regionalization and suggested the possibility of automatic recognition of an official OIE (and eventually IPPC) disease status.⁵⁵ The European Union proposed Committee actions to build on the thematic sessions on regionalization,⁵⁶ clarifying that a further examination of dispute settlement reports might not be required in light of the information already provided at these sessions. The United States suggested Committee activities to promote greater understanding of regionalization and to help Members overcome challenges in its implementation.⁵⁷

9.2. Some Members supported the development of case studies and training materials, as outlined in the US proposal, and further suggested experience-sharing through written submissions and greater use of the agenda item on regionalization; discussions on the reasons behind the lack of implementation of the SPS Committee Guidelines on Regionalization⁵⁸; inviting the IPPC and OIE to provide further information on their ongoing work; and organizing a thematic session on regionalization.

9.3. Some Members also expressed concerns with the concept of the automatic recognition of OIE disease status, as suggested in Brazil's proposal. In response, Brazil recognized that for many Members, automatic recognition of OIE disease status was difficult and clarified that it did not preclude undertaking a risk assessment. The European Union clarified that reviewing the Guidelines on Regionalization could help identify obstacles to their practical implementation, and a possible need for clarification.

9.4. Brazil subsequently presented a proposal on regionalization,⁵⁹ which expanded on and replaced the suggestions on regionalization contained in its previous submission.⁶⁰

⁵⁵ [G/SPS/W/301](#).

⁵⁶ [G/SPS/W/298](#).

⁵⁷ [G/SPS/W/303](#).

⁵⁸ [G/SPS/48](#).

⁵⁹ [G/SPS/W/307](#).

⁶⁰ [G/SPS/W/301](#).

9.5. Brazil, the European Union and the United States indicated that they had held discussions on the common objectives of their proposals, with a view to identifying practical ideas to cooperate to resolve concerns in this area. These ideas included discussion of case studies to identify benefits and challenges, promoting transparency, reinvigorating the standing agenda item on regionalization, and seeking inputs from OIE and IPPC.

9.6. Members expressed their general support for continued discussions, including with the OIE and IPPC, on how to address the concerns of Members. Canada drew attention to its paper on experiences with regionalization.⁶¹

9.7. Brazil, the European Union and the United States subsequently presented a joint paper containing a number of questions for Members, and for IPPC and OIE.⁶² The proponents indicated that the paper included a synthesis of all ideas in their previous individual proposals, highlighting that it sought to outline a way forward to discussions that could lead to consensus recommendations within the Committee. The proponents invited Members, as well as IPPC and OIE, to provide responses to a set of questions outlined in the joint proposal, and to indicate whether other questions should be included. These questions and responses would form the basis for a more in-depth discussion in July 2019. Members agreed to move forward on this basis.

9.8. Members,⁶³ IPPC⁶⁴ and OIE⁶⁵ submitted comments/responses to the questions in the joint proposal. Brazil, the European Union and the United States provided an overview of these comments/responses highlighting several common themes: (i) Members were not interested in reviewing the guidelines; (ii) there was strong interest in capacity development and the continued sharing of experiences, e.g. through case studies, manuals, etc.; (iii) Members mostly used IPPC and OIE documents in their regionalization efforts and not the Committee's guidelines. In addition, some Members emphasized the need for more effective implementation of the guidelines. Other themes such as unnecessary delays and lack of transparency had also been mentioned in the responses. The responses from IPPC and OIE had called for greater engagement by IPPC and OIE delegates, and coordination with SPS Committee delegates. The OIE had also further highlighted its available resources and activities to enhance implementation, such as the OIE PVS pathway work. The OIE had also identified the difficulties associated with analyzing the information contained in SPS notifications, due to differences in data structure, format and quality.

9.9. One Member indicated interest in revising particular wording in the guidelines in order to be consistent with the OIE's Aquatic Code. In particular, the suggestion was to make reference to "veterinary, aquatic or phytosanitary..." instead of "veterinary or phytosanitary service" in [G/SPS/48](#), as in some countries the competent authorities for aquatic products were not the veterinary authorities.

9.10. Another Member underscored the role of trust and transparency in the process of regionalization and further noted that while there was a standing agenda item on regionalization, there was no process to monitor progress in this area. Another Member recognized the efforts of ISSBs to clarify their standards and emphasized the role of regional economic communities, while also emphasizing the need to strengthen regional forums within international organizations.

9.11. Some Members underscored the need for more capacity building activities on regionalization, as well as the development of case studies as part of the experience-sharing process. In addition, one Member highlighted the need for continued information exchange on this topic and indicated that it could support a recommendation along the lines of encouraging Members to share their experiences in implementing regionalization. Another Member indicated that it planned to facilitate the use of the SPS Committee guidelines by translating them into its official language.

9.12. One Member highlighted the challenges faced in dealing with trading partners immediately after an outbreak, given the tendency for bans, and further observed that despite the IPPC and OIE guidance, there was a trend towards stricter measures, especially for exotic diseases. The OIE highlighted that a key message should be the need for improved coordination and communication

⁶¹ [G/SPS/GEN/1650](#).

⁶² [G/SPS/W/311](#).

⁶³ [G/SPS/W/311/Add.1/Rev.2](#).

⁶⁴ [G/SPS/W/311/Add.3](#).

⁶⁵ [G/SPS/W/311/Add.2](#) and [G/SPS/W/311/Add.2/Corr.1](#).

flow between OIE delegates and SPS Committee delegates. The IPPC drew Members' attention to the existing standards related to pest-free areas and noted that the standard for fruit flies was also relevant. The IPPC invited Members to view the standards, case studies and other training materials available on the IPPC website, and highlighted the International Symposium on Pest Free Areas and Surveillance held in Japan in October 2019. The IPPC further encouraged delegates to consult with their NPPOs regarding requests from the SPS Committee.

9.13. In discussing the draft recommendations contained in [G/SPS/W/313/Rev.1](#), the European Union indicated that it did not find the suggested recommendations problematic but had a preference for a more ambitious result. The European Union, with Brazil and the United States, was planning to submit new language, for example to encourage the use of the Committee's Guidelines, avoid unnecessary requests to resubmit information, encourage sharing of experiences, cooperation with the ISSBs and improved monitoring. The United States appreciated the collaborative work on this topic, based on the discussions at the thematic sessions, and Brazil noted that thoroughly addressing the issue of regionalization was a way of showing respect for the work of the ISSBs.

9.14. One international observer organization also highlighted the need for more technical assistance in the area.

9.15. *Recommendations:*

- *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.*

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

10.1. South Africa proposed inviting the three standard-setting bodies to intervene in the Committee when specific trade concerns (STCs) in their area were discussed.⁶⁶ Recalling a 2009 Workshop on the Relationship between the SPS Committee and the "Three Sisters" (i.e. Codex, IPPC and OIE), South Africa noted that many STCs were related to international standards, and that the "Three Sisters" could play a useful role in discussions of these concerns.

⁶⁶ [G/SPS/W/304](#).

10.2. The United States referred to its comments on the proposal⁶⁷ which invited Members to review the Committee's discussions in 2012 on the role of observers,⁶⁸ and further requested that the Secretariat provide some background information on the Committee's discussions. In response, the Secretariat provided information on past discussions of the role of observer organizations, highlighting a 2012 background document on the subject⁶⁹ and its annex which also contained the recommendations from the 2009 Workshop.

10.3. Several Members agreed that ISSBs could play a useful role in helping resolve concerns and also strengthen the factual basis of STCs discussed in the Committee. They referenced the useful information contained in the Catalogue of Instruments.⁷⁰ They emphasized that the role of ISSBs should be neutral. Members also expressed interest in refining the proposal through further discussion in order to avoid a situation where ISSBs would need to study all STCs on the agenda, trying to identify relevant standards. One Member also questioned the role that ISSBs could play in resolving trade concerns.

10.4. South Africa subsequently introduced an addendum to its proposal,⁷¹ recalling that its original proposal built on the recommendations from the 2009 SPS Committee workshop. South Africa further proposed a more active role of the "Three Sisters" in addressing STCs, specifically in relation to implementing recommendation 8 of the 2009 workshop.⁷² Specifically, South Africa proposed that the Secretariat write to the ISSBs requesting that they analyze the STCs and identify those which could have been addressed by the use of existing international standards. The relevant standard-setting body would then submit a report to the Secretariat. The Secretariat would share these reports with the Committee and organize a workshop wherein each of the ISSBs would share its analysis of the identified STC(s).

10.5. Some Members reiterated concerns about the potential burden on ISSBs if they needed to review the numerous STCs discussed in the Committee, given resource constraints; ISSBs having to take positions on STCs in relation to Members' measures and existing international standards, which could lead to discussions on the ALOP, which was outside the remit of the ISSBs; and the feasibility of having ISSBs analyze STCs without compromising their independent mandates. They queried the purpose of the ISSB's assessment of STCs, if there would be no obligation following the outcome of the assessment.

10.6. Other Members were of the view that there could be a role for ISSBs in providing insights to solve trade concerns, but also highlighted that ISSBs would need to find ways to prioritize their work, so that they could focus on the more persistent and long-standing STCs first. Members indicated their willingness to engage in further discussions on the proposal in order to address these concerns. South Africa further noted that no fundamental opposition to the proposal had been raised, but that there were practical concerns, and reiterated the suggestion put forward by another Member that ISSBs be given an opportunity to respond to the proposal, in order to facilitate the way forward.

10.7. Codex, IPPC and OIE provided a joint response⁷³ highlighting the following points: (i) the necessity of ISSBs to remain neutral on STCs; (ii) upon request, the ISSBs could provide clarification/complementary information during SPS Committee meetings, as long as it did not involve interpretation of the provisions in the international standard; (iii) the analysis and reporting on STCs was outside of their respective mandates; and (iv) the considerable staff resources and technical expertise that would be needed to review STCs.

⁶⁷ [G/SPS/GEN/1655](#).

⁶⁸ The following documents were also referenced in the submitted comments: (i) the 2012 Secretariat's Note on *Observers in the SPS Committee - Their Role and Outstanding Requests* ([G/SPS/GEN/1157](#)); and (ii) the 2012 Proposal by Chile and the United States on *International Standard Setting Bodies Involvement in the WTO SPS Committee in Specific Trade Concerns (STCs)* ([G/SPS/W/267](#)).

⁶⁹ [G/SPS/GEN/1157](#).

⁷⁰ [G/SPS/63](#).

⁷¹ [G/SPS/W/304/Add.1](#).

⁷² Recommendation 8 of the 2009 workshop: Requesting the "Three Sisters" to analyze the current specific trade concerns raised in the SPS Committee to see which of these could have been addressed by the use of the existing international standards (Report of the 2009 workshop, [G/SPS/R/57](#)).

⁷³ [G/SPS/W/314](#).

10.8. South Africa indicated its appreciation for the joint response and further recalled that its proposal drew upon recommendations from the October 2009 workshop. South Africa requested the ISSBs to only analyze the STCs as recommended in [G/SPS/R/57](#), within the limit of their resources.

10.9. The IPPC highlighted the ISSB's work on trade issues and underscored that it was important to examine how to implement standards which promote trade.

10.10. The OIE drew Members' attention to paragraph 3 of [G/SPS/W/314](#), noting that OIE could provide general information on a standard that was relevant to a particular STC. However, in most cases the issue was the lack of implementation of a standard and as such, the OIE queried the nature of specific inputs or analysis that ISSBs could provide in this regard. The OIE requested additional clarification on the nature of analysis by the ISSBs that was being requested and underscored the need for Members to provide the relevant information in order to facilitate this analysis. OIE further emphasized the resource constraints of ISSBs.

10.11. South Africa proposed to work with the Secretariat and the ISSBs to see how best to address this matter.

10.12. *Recommendations:*

- *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.*

11 VOLUNTARY THIRD-PARTY ASSURANCE SCHEMES

11.1. Belize submitted a proposal suggesting that the Committee commence work on the development of guidelines for the implementation of Article 13 of the SPS Agreement.⁷⁴ The submission also included a recommendation to initiate this work either through the formation of an ad hoc working group or by holding a workshop. The submission indicated several areas that could be explored if the Committee agreed to first hold a workshop to explore Members' experiences in recognizing third party assurance schemes, CCFICS work on guidance for competent authorities to assess third party assurance schemes, efforts to benchmark such certification programmes with international SPS standards, and importing and exporting countries' experiences.

11.2. The United States referred to its written comments, indicating that it could not support the development of guidelines.⁷⁵ Belize submitted a written statement addressing the comments, and further urged Members to support either a workshop or thematic session on third party assurance schemes in 2019.⁷⁶

11.3. Belize introduced its new proposal to hold a thematic session on voluntary third-party assurance programmes in March 2020,^{77,78} in view of the ongoing work being undertaken by CCFICS on the use of voluntary third-party assurance to inform national food control system planning, and the current pilot STDF projects to be undertaken in Belize, Honduras, Mali, Senegal and Uganda. The submission outlines the four main areas that could be covered in a thematic session. The submission also includes specific language on the recommendation to hold a thematic session for the report of the Fifth Review.

11.4. Some Members highlighted their concerns with the sensitive and divisive nature of the topic and underscored that the scope of the thematic session would have to be well-defined in order to create a space for constructive discussions, such as the focus on the work of CCFICS and STDF in this area. Belize further clarified, in response to a query from a Member, that the main purpose of

⁷⁴ [G/SPS/W/306](#).

⁷⁵ [G/SPS/GEN/1655](#).

⁷⁶ [G/SPS/GEN/1661](#).

⁷⁷ The original proposal referred to "a thematic session or workshop", however in the July 2019 SPS Committee meeting, Belize informed the Committee that the four areas indicated in its proposal would be best covered in a one-day thematic session, as opposed to a two-day workshop.

⁷⁸ [G/SPS/W/316](#).

its new proposal was to hold a thematic session aimed at sharing good practices that could be used in the pilot phase of an STDF project, as opposed to its earlier proposal which had focused on the development of guidelines for the implementation of Article 13.

11.5. Members discussed the potential timing of the thematic session. One Member suggested rescheduling the thematic session to November 2020 in order to allow for the finalization of CCFICS guidelines which were expected in July 2020. However, another Member noted that previous thematic sessions had been held on equivalence where systems approach had been discussed, even though the relevant Codex work had not been finalized. The lack of completion of CCFICS work would not preclude a thematic session. Belize further explained that the March 2020 date was meant to help inform the countries piloting the STDF project and to bridge information gaps. Belize also underscored that, in the standard-setting process, Members could only contribute to discussions where they had the relevant knowledge. In this regard, Belize highlighted the difference between standard-takers and standard-makers and emphasized that holding the thematic session in March 2020 would provide an opportunity to empower more countries to actively participate in the standard-setting process.

11.6. The Committee agreed to hold the thematic session in March 2020, and also to include the specific recommendation from Belize's proposal (with a minor edit to remove the reference to 'workshop') in the revised version of this draft Report.

11.7. Belize subsequently presented a draft programme for the thematic session,⁷⁹ highlighting the overall objective and the structure of the proposed sessions.

11.8. In view of the ongoing work being undertaken by CCFICS on the use of voluntary third-party assurance to inform national food control system planning, and the current pilot projects that will be undertaken in Belize, Honduras, Mali, Senegal and Uganda, the Committee scheduled a thematic session on voluntary third-party assurance programmes for March 2020. This thematic session will cover voluntary third-party assurance as part of national SPS control systems, with the main objectives to: receive updates from the international standard-setting bodies on their work in the area; facilitate an exchange of information among Members on their use of voluntary third-party assurance as part of national SPS control systems; obtain the perspectives and experiences of the private sector; and learn about capacity-building initiatives in this area.⁸⁰

⁷⁹ [G/SPS/W/321](#).

⁸⁰ [G/SPS/W/1754/Rev.2](#).

ANNEX I: LIST OF TOPICS AND PROPOSALS

Members	ALOP, Risk Assessment and Science	Annex C	Equivalence	National SPS Committees	Notification Procedures/ Transparency	MRLs of Plant Protection Products	Regionalization	Other Topics
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</i> G/SPS/W/292/Rev.4	-	-
Australia	-	-	G/SPS/W/299	-	-	<i>Joint submission</i> G/SPS/W/292/Rev.4	-	-
Belize								Development of guidelines for implementation of Article 13 G/SPS/W/306 ; thematic session on voluntary third-party assurance programmes G/SPS/W/316 ; and draft programme for Thematic Session on Voluntary Third-Party Assurance Programmes (G/SPS/W/320)
Benin, Burkina Faso, Burundi, The Gambia, Ghana, Kenya, Madagascar, Morocco, Nigeria, United States and Zambia	-	-	-	<i>Joint submission</i> G/SPS/W/297	-	-	-	-

Members	ALOP, Risk Assessment and Science	Annex C	Equivalence	National SPS Committees	Notification Procedures/ Transparency	MRLs of Plant Protection Products	Regionalization	Other Topics
Brazil	G/SPS/W/301 , G/SPS/W/308	-	G/SPS/W/301	-	G/SPS/W/300 , G/SPS/W/312	<i>Joint submission</i> G/SPS/W/292/Rev.4	G/SPS/W/301 , G/SPS/W/307 , G/SPS/W/311	<i>Joint submission on</i> <i>Fall armyworm</i> G/SPS/W/305 , G/SPS/W/309 , G/SPS/W/309/Corr.1 , G/SPS/W/317
Brazil, European Union and United States	-	-	-	-	-	-	G/SPS/W/311	
Brazil, Kenya, Madagascar, Paraguay, United States and Uruguay								<i>Joint submission on</i> <i>Fall armyworm</i> G/SPS/W/305 , G/SPS/W/309 , G/SPS/W/309/Corr.1
Brazil, Kenya, Paraguay and United States	-	-	-	-	-	-	-	<i>Joint submission on</i> <i>Fall armyworm</i> G/SPS/W/317
Canada	-	G/SPS/W/310 , G/SPS/W/321	G/SPS/W/302/Rev.1	-	-	<i>Joint submission</i> G/SPS/W/292/Rev.4	-	-
European Union	-	-	-	-	-	-	G/SPS/W/298 , G/SPS/W/311	-
South Africa	-	-	-	-	-	-	-	Role of Codex, IPPC and OIE in addressing STCs G/SPS/W/304 , G/SPS/W/304/Add.1
United States	Topic of interest: risk analysis (including risk communication)	Topic of interest	-	<i>Joint submission</i> G/SPS/W/297	Topic of interest	<i>Joint submission</i> G/SPS/W/292/Rev.4	G/SPS/W/303 , G/SPS/W/311	<i>Joint submission on</i> <i>Fall armyworm</i> G/SPS/W/305 , G/SPS/W/309 , G/SPS/W/309/Corr.1 , G/SPS/W/317