



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

ADAPTATION OF SPS MEASURES TO REGIONAL CONDITIONS

PROPOSAL FROM INDIA

The following proposal, received on 16 April 2024, is being circulated at the request of the delegation of India.

1 BACKGROUND

1.1. The Sixth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) provides an opportunity for Members to continue the work towards full and effective implementation of the SPS Agreement, including application of the concepts and obligations under the Agreement to ensure that SPS measures do not constitute means of arbitrary and unjustified discrimination between Members as enshrined in the SPS Agreement. India expects that the Sixth Review complements and continues the discussions on enhancing safe trade through adaptation of SPS measures to regional conditions in pursuance of paragraph 7 of the Sanitary and Phytosanitary Declaration for the 12th Ministerial Conference: Responding to Modern SPS Challenges (SPS Declaration).

1.2. The work of Thematic Group 3 under the Work Programme of the SPS Declaration has shown that there is a consensus amongst WTO Members on the importance of regionalization in facilitating safe trade, the difficulties in establishing a disease-free or pest-free area and the non-recognition of the disease or pest status maintained by WOA and IPPC.

1.3. These issues have regularly been discussed during the previous reviews of the operation and implementation of the SPS Agreement. India had presented its proposal to emphasize on resource constraints of developing country Members and least developed country Members (LDCs) requiring the discussions at the SPS Committee on how to improve technical and administrative assistance with respect to establishing regionalization and harmonizing different concepts of regionalization and the importance of establishing and recognizing areas of low pest or disease prevalence.

1.4. Another important issue which has regularly been highlighted by many Members is the non-recognition by importing Members of the disease or pest status in exporting Members as maintained by WOA and IPPC and the non-recognition of regional conditions as mandated under Article 6 of the SPS Agreement.

2 PROPOSALS

2.1. In the draft report to the 13th Ministerial Conference, the SPS Committee has recognized that adaptation of SPS measures to regional conditions, including recognition of pest- or disease-free areas and areas of low pest or disease prevalence, based on WOA and IPPC guidance and SPS Committee guidelines in [G/SPS/48](#), are an important means by which to facilitate safe trade and can help avoid unnecessary trade restrictions. The SPS Committee also highlighted that capacity building can assist in bringing domestic regulatory frameworks in line with relevant international guidance.

2.1 Recognition and harmonization of regional conditions

2.2. WAOH and IPPC recognizes several forms of regional conditions, each with its own distinct meaning and purpose. Often the SPS regime in importing Members fails to specify which form of regionalization their regulations recognize. Thus, this lack of clear understanding of the forms of regionalization creates hurdles for exporting Members to achieve recognition of their regional conditions by importing Members.

2.3. WAOH recognizes three forms of regionalization: disease-free countries, zones and compartments. Similarly, IPPC recognizes three forms of regionalization: pest-free area, pest-free place of production (PFPP) or pest-free production site (PFPS), and area of low pest prevalence. The prevalence of several forms of regionalization and the nature of WAOH and IPPC guidelines as recommendatory has permitted importing Members to selectively recognize different forms of regional conditions.

2.4. However, due to the lack of harmonization of regional conditions and their recognition by importing Members, there is an uncertainty on how an importing Member should treat some of the forms of regional conditions. For instance, there is no certainty on the manner in which an importing Member recognizes a WAOH-endorsed control programme of an exporting Member and thereby grants market access.

2.1.1 Proposal

2.5. Against this background, India would encourage further exchanges on recognition and harmonization of regional conditions in order to ensure trust and confidence among Members on variations of regional conditions, thereby facilitating seamless trade.

2.6. Additionally, India proposes to establish a work programme which identifies the reasons for non-recognition of regional conditions, including disease or pest status recognized by relevant international organizations and non-recognition of effective eradication programmes of exporting Members even though endorsed by relevant international organizations.

2.7. The work programme should provide a set of guidelines and parameters to enable harmonization of regions like zones and compartments (which could be either free areas or areas of low prevalence) in line with the regions already established by Members through preparing an indicative list of factors such as geography, ecosystem, surveillance, and effective control system. The guidelines must require importing Members to recognize compartments and zones of the exporting Members if it has been objectively demonstrated to importing Members that said zones and compartments are free areas or areas of low prevalence as has been established by the exporting Members.

2.2 Establishment and Recognition of areas of low pest or disease prevalence

2.8. As has been observed, Members face difficulty in establishing disease-free or pest-free areas due to financial and regulatory limitations. A solution to this issue may be through the establishment of areas of low pest or disease prevalence (low prevalence areas) and recognition of such areas by importing Members.

2.9. The general guidelines of the IPPC and WAOH provide considerable flexibility to Members to determine the form and structure of their SPS measures that are adapted to regional conditions. ISPM 22 of IPPC highlights the advantages of establishing an area of low pest prevalence – removal of post-harvest treatment, less restrictive control on movement into an area of low pest prevalence and permitting the presence of a pest in an area up to a specified population level.

2.10. While the flexibilities permitted for the establishment of an area of low pest prevalence are welcomed, there may be concerns on the recognition of the concept by importing Members. While ISPM 22 provides a procedure with respect to the recognition of areas of low pest prevalence, it has been observed that many Members have not permitted their domestic system to recognize efforts by exporting Members to establish an area of low pest prevalence. Moreover, many exporting Members face delays in recognition of their regional conditions.

2.2.1 Proposal

2.11. In this regard, India suggests that the Sixth Review conducts workshops in improving the understanding of Members on areas of low pest or disease prevalence with emphasis on building trust among the importing Members on safety of products originating from such areas.

2.3 Areas of low disease prevalence

2.12. Members have regularly highlighted issues around lack of infrastructure and resources, lack of verification capacity, inconsistent criteria, and lack of understanding of international guidelines to fully establish pest-free or disease-free areas as per Article 6 of the SPS Agreement.

2.13. As mentioned earlier, ISPM 22 provides requirements for establishing areas of low pest prevalence. However, even though Article 6 of SPS Agreement explicitly recognizes the concept of areas with low disease prevalence, WOHAI guidelines do not explicitly provide a procedure for establishing and recognizing areas of low disease prevalence.

2.14. Trade in animals and animal products forms a major part of global trade under the SPS Agreement. It is important for not only sustenance but also survival of small stakeholders, including family-run businesses, in developing country Members and LDCs that areas of low disease prevalence are recognized by importing Members in order to facilitate trade in animals and animal products.

2.3.1 Proposal

2.15. In light of the above, India proposes that a work programme is established to discuss the elements and science-based analyses for establishing areas of low disease prevalence and for importing Members to recognize such areas so that trade can be facilitated from such areas.

2.16. The work programme must create a common understanding on and recommend the factors which should be considered and procedures which should be followed by the Members while establishing and recognizing areas of low disease prevalence, in consultation with WOHAI, on the same lines as ISPM 22 of IPPC.
