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1 ARTICLE 12 OF THE AGREEMENT ON SANITARY AND PHYTOSANITARY MEASURES

1.1 Text of Article 12

Article 12

Administration

1. A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.

2. The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. The Committee shall encourage the use of international standards, guidelines or recommendations by all Members and, in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs.

3. The Committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.

4. The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or phytosanitary measures which the Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason therefor, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.

5. In order to avoid unnecessary duplication, the Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.

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

7. 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. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation.

1.2 Article 12.1

1.2.1 Committee on Sanitary and Phytosanitary Measures

1. At its meeting of 11 June 1997, the Council for Trade in Goods approved the Rules of Procedure for meetings of the Committee on Sanitary and Phytosanitary Measures (SPS Committee)¹, consisting of the General Council's Rules of Procedure² applied *mutatis mutandis* with agreed modifications.

2. The SPS Committee reports annually on its activities to the Council for Trade in Goods.³

1.2.2 Relationship with other Articles

1.2.2.1 Article 3.5

3. Articles 12.1 and 12.4 of the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) are mentioned in Article 3.5, which mandates the SPS Committee to develop a procedure to monitor the international harmonization of standards, guidelines, and recommendations. For information about the procedures adopted by the SPS Committee, see the information in paragraph 6 below.

¹ [G/C/M/20](#), section 2. The text of the approved Rules of Procedure can be found in [G/L/170](#).

² [WT/L/161](#).

³ [G/L/38](#) for 1995; [G/L/118](#) for 1996; [G/L/197](#) for 1997; [G/L/274 and Corr.1](#) for 1998; [G/L/315](#) for 1999; [G/L/411](#) for 2000; [G/L/485](#) for 2001; [G/L/592](#) for 2002; [G/L/661](#) for 2003; [G/L/709](#) for 2004; [G/L/755](#) for 2005; [G/L/794](#) for 2006; [G/L/842](#) for 2007; [G/L/866](#) for 2008; [G/L/897](#), [Rev.1](#) and [Corr.1](#) for 2009; [G/L/943](#) for 2010; [G/L/969](#) for 2011; [G/L/1013](#) for 2012; [G/L/1039](#) and [Rev.1](#) for 2013; [G/L/1086](#) for 2014; [G/L/1129](#) for 2015; [G/L/1164](#) for 2016; [G/L/1202](#) for 2017; [G/L/1280](#) for 2018; [G/L/1336](#) for 2019; and [G/L/1376](#) for 2020.

1.2.2.2 Article 5.5

4. Article 12.1 of the SPS Agreement, along with Articles 12.2 and 12.3, is mentioned in the second sentence of Article 5.5. In this second sentence, Members are asked to cooperate with the SPS Committee to develop guidelines to further the implementation of the provision. In accordance with this sentence, the SPS Committee, in June 2000, adopted guidelines to further the practical implementation of Article 5.5. For the description of these guidelines, see the section on Article 5.5 in the document on Article 5 of the SPS Agreement (Practice).

1.3 Article 12.2

1.3.1 General

5. At its meeting of 9 July 2014, the SPS Committee adopted the "Procedure to encourage and facilitate the resolution of specific sanitary or phytosanitary issues among Members in accordance with Article 12.2"⁴, thus concluding the last outstanding item from the Committee's second review of the SPS Agreement. This procedure aims to help Members wishing to use the good offices of the Chairperson or another facilitator to resolve trade concerns.

1.3.2 Relationship with other Articles

1.3.2.1 Article 5.5

6. Article 12.2 of the SPS Agreement, along with Articles 12.1 and 12.3, is mentioned in the second sentence of Article 5.5. In this sentence, Members are asked to cooperate with the SPS Committee to develop guidelines to further the implementation of the provision. In accordance with this sentence, the SPS Committee has adopted guidelines to further the practical implementation of Article 5.5. For the description of these guidelines, see the section on Article 5.5 in the document on Article 5 of the SPS Agreement (Practice).

1.4 Article 12.3

1.4.1 General

7. Since 1995, the SPS Committee has granted observer status, either on a regular basis, as part of a WTO reciprocity agreement or memorandum of understanding, or on an *ad hoc* basis.⁵

1.4.2 Relationship with other Articles

1.4.2.1 Article 5.5

8. Article 12.3 of the SPS Agreement, along with Articles 12.1 and 12.2, is mentioned in the second sentence of Article 5.5. In this sentence, Members are asked to cooperate with the SPS Committee to develop guidelines to further the implementation of the provision. In accordance with this sentence, the SPS Committee has adopted guidelines to further the practical implementation of Article 5.5. For the description of these guidelines, see the section on Article 5.5 in the document on Article 5 of the SPS Agreement (Practice).

1.5 Article 12.4

1.5.1 General

9. At its meeting of 15-16 October 1997, the SPS Committee adopted provisional procedures to monitor the use of international standards⁶, and also agreed to review the operation of the provisional monitoring procedure 18 months after its implementation, with a view to deciding at that

⁴ [G/SPS/61](#).

⁵ [G/SPS/GEN/1112](#). For a list of bodies granted observer status, see [G/SPS/W/78/Rev.14](#).

⁶ [G/SPS/11](#). At its meeting of 8 July 1999, the Committee adopted the First Annual Report on the monitoring procedure (see [G/SPS/13](#)). The Twenty-First Annual Report on the Procedure to Monitor the Process of International Harmonization was considered by the Committee on 28 June 2019 (See [G/SPS/GEN/1710](#)).

time whether to continue with the same procedure, amend it, or develop another one.⁷ After agreeing to a number of extensions on the provisional procedure to monitor the use of international standards, at its meeting of 27-28 October 2004, the SPS Committee adopted modifications to the provisional procedure to monitor the use of international standards.⁸ On 5 July 2006, the Committee adopted a decision to modify and extend the provisional procedure to monitor the process of international harmonization.⁹

1.5.2 Relationship with other Articles

1.5.2.1 Article 3.5

10. Articles 12.1 and 12.4 of the SPS Agreement are mentioned in Article 3.5 which mandates the SPS Committee to develop a procedure to monitor the international harmonization of standards, guidelines and recommendations. These procedures are described in paragraph 6 above.

1.6 Article 12.7

11. At its meeting of 15-16 October 1997, the SPS Committee agreed on procedures for conducting the review of the implementation and operation of the SPS Agreement.¹⁰ The First Review was completed in March 1999.¹¹

12. At the Doha Ministerial Conference, Members adopted a deadline for reviewing the operation and implementation of the SPS Agreement:

"Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years."¹²

13. At its meeting of 22-23 June 2004, the Committee decided on the process for the Second Review of the SPS Agreement. The Committee completed its Second Review and adopted a report in this respect on 30 June 2005.¹³

14. At its October 2008 meeting, the Committee adopted a procedure and timetable to undertake the Third Review of the Agreement.¹⁴ The report of the Third Review was adopted by the Committee on 18 March 2010.¹⁵

15. At its October 2013 meeting, the Committee adopted a procedure and timetable to undertake the Fourth Review of the Agreement.¹⁶ The report of the Fourth Review was adopted by the Committee on 14 July 2017.¹⁷ Adoption had taken over three years due to disagreement over a recommendation concerning SPS-related private standards.¹⁸

16. As in the three previous Reviews, the Committee discussions in the Fourth Review focused on operation and implementation issues related to: the monitoring the use of international standards (Articles 3.5 and 12.4); equivalence (Article 4); consistency (Article 5.5); regionalization (Article 6); transparency (Article 7 and Annex B); technical assistance and training activities (Article 9); special and differential treatment (Article 10); dispute settlement activities (Article 11); implementation of the SPS Agreement (Articles 12.1 and 12.2) – specific trade concerns / use of *ad hoc* consultations; cooperation with the Codex Alimentarius Commission, the International Plant Protection Convention

⁷ [G/SPS/R/9/Rev.1](#), para. 21. The text of the procedures can be found in [G/SPS/11/Rev.1](#).

⁸ [G/SPS/11/Rev.1](#).

⁹ [G/SPS/40](#).

¹⁰ [G/SPS/R/9/Rev.1](#), paras. 35-37. The procedures can be found in [G/SPS/10](#).

¹¹ [G/SPS/12](#).

¹² [WT/MIN\(01\)/17](#), para. 3.4.

¹³ [G/SPS/36](#).

¹⁴ [G/SPS/W/228](#).

¹⁵ [G/SPS/53](#).

¹⁶ [G/SPS/W/270](#) and [G/SPS/W/270/Add.1](#).

¹⁷ [G/SPS/62](#)

¹⁸ [G/SPS/62](#), para. 1.3 and section 14.

and the World Organisation for Animal Health (Article 12.3); good regulatory practice; and SPS-related private standards. In addition, in the Fourth Review, the Committee also considered: risk analysis – risk assessment (Article 5), risk management and communication; and the catalogue of instruments to manage SPS issues.¹⁹

17. At its March 2018 meeting, the SPS Committee adopted a procedure and timetable to undertake the Fifth Review of the SPS Agreement.²⁰ At its June 2020 regular meeting, the Committee adopted, on an *ad referendum* basis, the report of the Fifth Review of the SPS Agreement.

18. The Report of the Fifth Review is comprised of two parts:

- (a) Part A: Proposals submitted under the Fifth Review²¹ and a list thereof, as well as information on the discussions and thematic sessions that have taken place on the various topics. In addition, this Part contains information on the areas identified for further work by the SPS Committee, including any recommendations; and
- (b) Part B: A factual report.²²

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Current as of: March 2021

¹⁹ [G/SPS/62](#), paras. 1.4 and 1.5.

²⁰ [G/SPS/W/296/Rev.1](#).

²¹ [G/SPS/64](#).

²² [G/SPS/64/Add.1](#).