Committee on Sanitary and Phytosanitary Measures

MAJOR DECISIONS AND DOCUMENTS

August 2023
COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

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AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

15 April 1994
AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

Members,

Reaffirming that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

Desiring to improve the human health, animal health and phytosanitary situation in all Members;

Noting that sanitary and phytosanitary measures are often applied on the basis of bilateral agreements or protocols;

Desiring the establishment of a multilateral framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and phytosanitary measures in order to minimize their negative effects on trade;

Recognizing the important contribution that international standards, guidelines and recommendations can make in this regard;

Desiring to further the use of harmonized sanitary and phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring Members to change their appropriate level of protection of human, animal or plant life or health;

Recognizing that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or phytosanitary measures in their own territories, and desiring to assist them in their endeavours in this regard;

Desiring therefore to elaborate rules for the application of the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b)\(^1\);

Hereby agree as follows:

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\(^1\)In this Agreement, reference to Article XX(b) includes also the chapeau of that Article.
Article 1

General Provisions

1. This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.

2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.

3. The annexes are an integral part of this Agreement.

4. Nothing in this Agreement shall affect the rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

Article 2

Basic Rights and Obligations

1. Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.

2. Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.

3. Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.

4. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

Article 3

Harmonization

1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.
2. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.

3. Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5. 2 Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protection different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.

4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.

5. The Committee on Sanitary and Phytosanitary Measures provided for in paragraphs 1 and 4 of Article 12 (referred to in this Agreement as the "Committee") shall develop a procedure to monitor the process of international harmonization and coordinate efforts in this regard with the relevant international organizations.

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Article 4

Equivalence

1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

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2For the purposes of paragraph 3 of Article 3, there is a scientific justification if, on the basis of an examination and evaluation of available scientific information in conformity with the relevant provisions of this Agreement, a Member determines that the relevant international standards, guidelines or recommendations are not sufficient to achieve its appropriate level of sanitary or phytosanitary protection.
Article 5

Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection

1. Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.

2. In the assessment of risks, Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.

3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.

4. Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects.

5. With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.

6. Without prejudice to paragraph 2 of Article 3, when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.3

7. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.

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3For purposes of paragraph 6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.
8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.

Article 6

Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area - whether all of a country, part of a country, or all or parts of several countries - from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, inter alia, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.

2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.

3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

Article 7

Transparency

Members shall notify changes in their sanitary or phytosanitary measures and shall provide information on their sanitary or phytosanitary measures in accordance with the provisions of Annex B.

Article 8

Control, Inspection and Approval Procedures

Members shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.
Article 9

Technical Assistance

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

Article 10

Special and Differential Treatment

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.

2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.

3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.

4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

Article 11

Consultations and Dispute Settlement

1. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.

2. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.
3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

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.

Article 13

Implementation

Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. Members shall take such reasonable measures as may be available to them to ensure that non-governmental entities within their territories, as well as regional bodies in which relevant entities within their territories are members, comply with the relevant provisions of this Agreement. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. Members shall ensure that they rely on the services of non-governmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.

Article 14

Final Provisions

The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.
ANNEX A
DEFINITIONS

1. **Sanitary or phytosanitary measure** - Any measure applied:

   (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;

   (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;

   (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or

   (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

2. **Harmonization** - The establishment, recognition and application of common sanitary and phytosanitary measures by different Members.

3. **International standards, guidelines and recommendations**

   (a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;

   (b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;

   (c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and

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*For the purpose of these definitions, "animal" includes fish and wild fauna; "plant" includes forests and wild flora; "pests" include weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.*
(d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.

4. **Risk assessment** - The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

5. **Appropriate level of sanitary or phytosanitary protection** - The level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.

NOTE: Many Members otherwise refer to this concept as the "acceptable level of risk".

6. **Pest- or disease-free area** - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

NOTE: A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area - whether within part of a country or in a geographic region which includes parts of or all of several countries - in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.

7. **Area of low pest or disease prevalence** - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.
TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

Publication of regulations

1. Members shall ensure that all sanitary and phytosanitary regulations\(^5\) which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.

2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

Enquiry points

3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:

   (a) any sanitary or phytosanitary regulations adopted or proposed within its territory;
   (b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
   (c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
   (d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.

4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals\(^6\) of the Member concerned.

Notification procedures

5. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, Members shall:

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\(^5\)Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

\(^6\)When "nationals" are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.
publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;

(b) notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;

(c) provide upon request to other Members copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;

(d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.

6. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 of this Annex as it finds necessary, provided that the Member:

(a) immediately notifies other Members, through the Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);

(b) provides, upon request, copies of the regulation to other Members;

(c) allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.

7. Notifications to the Secretariat shall be in English, French or Spanish.

8. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.

9. The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.

10. Members shall designate a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 5, 6, 7 and 8 of this Annex.

General reservations

11. Nothing in this Agreement shall be construed as requiring:

(a) the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 8 of this Annex; or

(b) Members to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.
ANNEX C

CONTROL, INSPECTION AND APPROVAL PROCEDURES

1. Members shall ensure, with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures, that:

(a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;

(b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant is informed of the stage of the procedure, with any delay being explained;

(c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;

(d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;

(e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;

(f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service;

(g) the same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;

(h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and

(i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

7Control, inspection and approval procedures include, inter alia, procedures for sampling, testing and certification.
Where an importing Member operates a system for the approval of the use of food additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or phytosanitary measure specifies control at the level of production, the Member in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.

3. Nothing in this Agreement shall prevent Members from carrying out reasonable inspection within their own territories.
RULES OF PROCEDURE FOR MEETINGS OF
THE COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

Approved by the Council for Trade in Goods on 11 June 1997

At its meeting of 19-20 March 1997, the Committee agreed that the Rules of Procedure for meetings of the General Council (WT/L/161) shall apply mutatis mutandis for meetings of the Committee on Sanitary and Phytosanitary Measures except as otherwise provided in the Working Procedures (G/SPS/1) as established or as subsequently amended by the Committee on Sanitary and Phytosanitary Measures and except as provided below:

(i) Rule 5 of Chapter II (Agenda) is not applicable.

(ii) Rule 6 of Chapter II (Agenda) shall be modified to read as follows:

The first item of business at each meeting shall be the consideration and approval of the agenda. Representatives or the Chairperson may suggest amendments to the proposed agenda, or additions to the agenda under "Other Business". Representatives shall provide the Chairperson or the Secretariat, and the other Members directly concerned, whenever possible, advance notice of items intended to be raised under "Other Business".

(iii) Rules 12, 13 and 14 of Chapter V (Officers) shall be modified to read as follows:

Rule 12

The Committee on Sanitary and Phytosanitary Measures shall elect a Chairperson from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. The Chairperson shall hold office until the end of the first meeting of the following year.

1 The Committee on Sanitary and Phytosanitary Measures shall apply the relevant guidelines contained in the "Guidelines for Appointment of Officers to WTO Bodies" (WT/L/31 dated 7 February 1995).
Rule 13

If the Chairperson is absent from any meeting or part thereof, the Committee on Sanitary and Phytosanitary Measures shall appoint an interim Chairperson for that meeting or that part of the meeting.

Rule 14

If the Chairperson can no longer perform the functions of the office, the Committee on Sanitary and Phytosanitary Measures shall appoint an interim Chairperson to perform those functions pending the election of a new Chairperson.

(iv) Rule 16 of Chapter VI (Conduct of Business) is not applicable.

(v) Rule 24 of Chapter VI (Conduct of Business) shall be modified to read as follows:

In order to expedite the conduct of business, the Chairperson may invite representatives that wish to express their support for a given proposal to show their hands; thus, only representatives with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure shall only be applied in order to avoid undue repetition of points already made, and will not preclude any representative who so wishes from taking the floor.

(vi) Rule 33 of Chapter VII (Decision-Making) shall be modified to read as follows:

In accordance with Article 12:1 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee shall reach its decisions by consensus.

(vii) Rule 34 of Chapter VII (Decision-Making) is not applicable.

(viii) Rule 36 of Chapter IX (Records) shall be replaced by the following:

Records of the Committee on Sanitary and Phytosanitary Measures meetings shall take the form of a summary report to be prepared by the Secretariat. Any delegation may, at their request, verify those portions of the draft report containing their statements prior to the issuance of the Secretariat summary report in accordance with the customary GATT practice. Delegations that wish to avail themselves of this verification procedure should so indicate to the Secretariat within 10 days of the close of the meeting concerned.
RULES OF PROCEDURE FOR SESSIONS OF THE MINISTERIAL CONFERENCE
AND MEETINGS OF THE GENERAL COUNCIL

Chapter I — Sessions

Rule 1

Regular sessions of the Ministerial Conference shall be held at least once every two years. The date of each regular session shall be fixed by the Ministerial Conference at a previous session.

Rule 2

A special session may, however, be held at another date on the initiative of the Chairperson, at the request of a Member concurred in by the majority of the Members, or by a decision of the General Council. Notice of the convening of any such session shall be given to Members at least twenty-one days before the opening of the session. In the event that the twenty-first day falls on a weekend or a holiday, the notice shall be issued no later than the preceding WTO working day.

Chapter II — Agenda

Rule 3

The provisional agenda for each regular session shall be drawn up by the Secretariat in consultation with the Chairperson and shall be communicated to Members at least five weeks before the opening of the session. It shall be open to any Member to propose items for inclusion in this provisional agenda up to six weeks before the opening of the session. Additional items on the agenda shall be proposed under "Other Business" at the opening of the session. Inclusion of these items on the agenda shall depend upon the agreement of the Ministerial Conference.

Rule 4

The provisional agenda for a special session shall be drawn up by the Secretariat in consultation with the Chairperson and shall be communicated to Members at least twenty-one days before the opening of the session. It shall be open to any Member to propose items for inclusion in this provisional agenda up to twenty-one days before the opening of the session. Additional items on the agenda shall be proposed under "Other Business" at the opening of the session. Inclusion of these items on the agenda shall depend upon the agreement of the Ministerial Conference.

Rule 5

The first item of business at each session shall be the consideration and approval of the agenda.

Rule 6

The Ministerial Conference may amend the agenda or give priority to certain items at any time in the course of the Session.

Chapter III — Credentials

Rule 7

Each Member shall be represented by an accredited representative.

Rule 8

Each representative may be accompanied by such alternates and advisers as the representative may require.

Rule 9

The credentials of representatives shall be submitted to the Secretariat at least one week before the opening of the session. They shall take the form of a communication from or on behalf of the Minister for Foreign Affairs or the competent authority of the Member authorizing the representative to perform on behalf of the Member the functions indicated in the WTO Agreement. The Chairperson after consulting with the Secretariat shall draw attention to any case where a representative has omitted to present credentials in due time and form.

Chapter IV — Observers

Rule 10

Representatives of States or separate customs territories may attend the meetings as observers on the invitation of the Ministerial Conference in accordance with paragraphs 9 to 11 of the guidelines in Annex 2 to these Rules.

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1It is understood that in the case of a separate customs territory Member the credentials of its representatives shall have no implication as to sovereignty.
Rule 11

Representatives of international intergovernmental organizations may attend the meetings as observers on the invitation of the Ministerial Conference in accordance with the guidelines in Annex 3 to these Rules.

Chapter V — Officers

Rule 12

During the course of each regular session a Chairperson and three Vice-Chairpersons shall be elected from among the Members. They shall hold office from the end of that session until the end of the next regular session.

Rule 13

If the Chairperson is absent from any meeting or part thereof, one of the three Vice-Chairpersons shall perform the functions of the Chairperson. If no Vice-Chairperson is present the Ministerial Conference shall elect an interim Chairperson for that meeting or that part of the meeting.

Rule 14

If the Chairperson can no longer perform the functions of the office, the Ministerial Conference shall designate one of the Vice-Chairpersons to perform those functions pending election of a new Chairperson in accordance with rule 12.

Rule 15

The Chairperson shall normally participate in the proceedings as such and not as the representative of a Member. The Chairperson may, however, at any time request permission to act in either capacity.

Chapter VI — Conduct of business

Rule 16

A simple majority of the Members shall constitute a quorum.

Rule 17

In addition to exercising the powers conferred elsewhere by these rules, the Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairperson may also call a speaker to order if the remarks of the speaker are not relevant.

Rule 18

During the discussion of any matter, a representative may raise a point of order. In this case the Chairperson shall immediately state the ruling. If the ruling is challenged, the Chairperson shall immediately submit it for decision and it shall stand unless overruled.
Rule 19

During the discussion of any matter a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proponent of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion, after which the motion shall be submitted for decision immediately.

Rule 20

A representative may at any time move the closure of the debate. In addition to the proponent of the motion, not more than one representative may be granted permission to speak in favour of the motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be submitted for decision immediately.

Rule 21

During the course of the debate, the Chairperson may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Chairperson may, however, accord the right of reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

Rule 22

The Chairperson, with the consent of the meeting, may limit the time allowed to each speaker.

Rule 23

Proposals and amendments to proposals shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed.

Rule 24

If two or more proposals are moved relating to the same question, the meeting shall first decide on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

Rule 25

When an amendment is moved to a proposal, the amendment shall be submitted for decision first and, if it is adopted, the amended proposal shall then be submitted for decision.

Rule 26

When two or more amendments are moved to a proposal, the meeting shall decide first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been submitted for decision.

Rule 27

Parts of a proposal may be decided on separately if a representative requests that the proposal be divided.
Chapter VII — Decision-Making

Rule 28

The Ministerial Conference shall take decisions in accordance with the decision-making provisions of the WTO Agreement, in particular Article IX thereof entitled "Decision-Making".

Rule 29

When, in accordance with the WTO Agreement, decisions are required to be taken by vote, such votes shall be taken by ballot. Ballot papers shall be distributed to representatives of Members present at the session and a ballot box placed in the conference room. However, the representative of any Member may request, or the Chairperson may suggest, that a vote be taken by the raising of cards or by roll call. In addition, where in accordance with the WTO Agreement a vote by a qualified majority of all Members is required to be taken, the Ministerial Conference may decide, upon request from a Member or the suggestion of the Chairperson, that the vote be taken by airmail ballots or ballots transmitted by telegraph or telefacsimile in accordance with the procedures described in Annex 1 to these Rules.

Chapter VIII — Languages

Rule 30

English, French and Spanish shall be the working languages.

Chapter IX — Records

Rule 31

Summary records of the meetings of the Ministerial Conference shall be kept by the Secretariat.\(^2\)

Chapter X — Publicity of meetings

Rule 32

The meetings of the Ministerial Conference shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.

Rule 33

After a private meeting has been held, the Chairperson may issue a communiqué to the Press.

Chapter XI — Revision

Rule 34

The Ministerial Conference may decide at any time to revise these rules or any part of them.

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\(^2\)The customary practice under the GATT 1947, whereby representatives may, upon their request, verify those portions of the draft records containing their statements, prior to the issuance of such records, shall be continued.
RULES OF PROCEDURE FOR MEETINGS OF THE GENERAL COUNCIL

Note: For the purposes of these Rules, the term "WTO Agreement" includes the Multilateral Trade Agreements.

Chapter I — Meetings

Rule 1

The General Council shall meet as appropriate.

Rule 2

Meetings of the General Council shall be convened by the Director-General by a notice issued not less than ten calendar days prior to the date set for the meeting. In the event that the tenth day falls on a weekend or a holiday, the notice shall be issued no later than the preceding WTO working day. Meetings may be convened with shorter notice for matters of significant importance or urgency at the request of a Member concurred in by the majority of the Members.

Chapter II — Agenda

Rule 3

A list of the items proposed for the agenda of the meeting shall be communicated to Members together with the convening notice for the meeting. It shall be open to any Member to suggest items for inclusion in the proposed agenda up to, and not including, the day on which the notice of the meeting is to be issued.

Rule 4

Requests for items to be placed on the agenda of a forthcoming meeting shall be communicated to the Secretariat in writing, together with the accompanying documentation to be issued in connection with that item. Documentation for consideration at a meeting shall be circulated not later than the day on which the notice of the meeting is to be issued.

Rule 5

A proposed agenda shall be circulated by the Secretariat one or two days before the meeting.

Rule 6

The first item of business at each meeting shall be the consideration and approval of the agenda. Representatives may suggest amendments to the proposed agenda, or additions to the agenda under "Other Business". Representatives shall provide the Chairperson or the Secretariat, and the other Members directly concerned, whenever possible, advance notice of items intended to be raised under "Other Business".

Rule 7

The General Council may amend the agenda or give priority to certain items at any time in the course of the meeting.
Chapter III — Representation

Rule 8

Each Member shall be represented by an accredited representative.

Rule 9

Each representative may be accompanied by such alternates and advisers as the representative may require.

Chapter IV — Observers

Rule 10

Representatives of States or separate customs territories may attend the meetings as observers on the invitation of the General Council in accordance with paragraphs 9 to 11 of the guidelines in Annex 2 to these Rules.

Rule 11

Representatives of international intergovernmental organizations may attend the meetings as observers on the invitation of the General Council in accordance with the guidelines in Annex 3 to these Rules.

Chapter V — Officers

Rule 12

The General Council shall elect a Chairperson* from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. The Chairperson shall hold office until the end of the first meeting of the following year.

Rule 13

If the Chairperson is absent from any meeting or part thereof, the Chairperson of the Dispute Settlement Body or the Chairperson of the Trade Policy Review Body, shall perform the functions of the Chairperson. If the Chairperson of the Dispute Settlement Body and of the Trade Policy Review Body are also not present, the General Council shall elect an interim Chairperson for that meeting or that part of the meeting.

Rule 14

If the Chairperson can no longer perform the functions of the office, the General Council shall designate a Chairperson in accordance with Rule 13 to perform those functions pending the election of a new Chairperson.

Rule 15

*The General Council shall apply the relevant guidelines contained in the "Guidelines for Appointment of Officers to WTO Bodies" (WT/L/31).
The Chairperson shall not normally participate in the proceedings as the representative of a Member. The Chairperson may, however, at any time request permission to do so.

Chapter VI — Conduct of business

Rule 16

A simple majority of the Members shall constitute a quorum.

Rule 17

In addition to exercising the powers conferred elsewhere by these rules, the Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairperson may also call a speaker to order if the remarks of the speaker are not relevant.

Rule 18

During the discussion of any matter, a representative may raise a point of order. In this case the Chairperson shall immediately state the ruling. If the ruling is challenged, the Chairperson shall immediately submit it for decision and it shall stand unless overruled.

Rule 19

During the discussion of any matter, a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proponent of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion, after which the motion shall be submitted for decision immediately.

Rule 20

A representative may at any time move the closure of the debate. In addition to the proponent of the motion, not more than one representative may be granted permission to speak in favour of the motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be submitted for decision immediately.

Rule 21

During the course of the debate, the Chairperson may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Chairperson may, however, accord the right of reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

Rule 22

The Chairperson, with the consent of the meeting, may limit the time allowed to each speaker.

Rule 23

Representatives shall endeavour, to the extent that a situation permits, to keep their oral statements brief. Representatives wishing to develop their position on a particular matter in fuller detail may circulate a written statement for distribution to Members, the summary of which, at the representative's request, may be reflected in the records of the General Council.
Rule 24

In order to expedite the conduct of business, the Chairperson may invite representatives that wish to express their support for a given proposal to show their hands, in order to be duly recorded in the records of the General Council as supporting statements; thus, only representatives with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure shall only be applied in order to avoid undue repetition of points already made, and will not preclude any representative who so wishes from taking the floor.

Rule 25

Representatives should avoid unduly long debates under "Other Business". Discussions on substantive issues under "Other Business" shall be avoided, and the General Council shall limit itself to taking note of the announcement by the sponsoring delegation, as well as any reactions to such an announcement by other delegations directly concerned.

Rule 26

While the General Council is not expected to take action in respect of an item introduced as "Other Business", nothing shall prevent the General Council, if it so decides, to take action in respect of any such item at a particular meeting, or in respect of any item for which documentation was not circulated at least ten calendar days in advance.

Rule 27

Representatives should make every effort to avoid the repetition of a full debate at each meeting on any issue that has already been fully debated in the past and on which there appears to have been no change in Members' positions already on record.

Rule 28

Proposals and amendments to proposals shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed.

Rule 29

If two or more proposals are moved relating to the same question, the meeting shall first decide on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

Rule 30

When an amendment is moved to a proposal, the amendment shall be submitted for decision first and, if it is adopted, the amended proposal shall then be submitted for decision.

Rule 31

When two or more amendments are moved to a proposal, the meeting shall decide first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been submitted for decision.

Rule 32

Parts of a proposal may be decided on separately if a representative requests that the proposal be divided.

Chapter VII — Decision-Making

Rule 33

The General Council shall take decisions in accordance with the decision-making provisions of the WTO Agreement, in particular Article IX thereof entitled "Decision-Making".

Rule 34

When, in accordance with the WTO Agreement, decisions are required to be taken by vote, such votes shall be taken by ballot. Ballot papers shall be distributed to representatives of Members present at the meeting and a ballot box placed in the conference room. However, the representative of any Member may request, or the Chairperson may suggest, that a vote be taken by the raising of cards or by roll call. In addition, where in accordance with the WTO Agreement a vote by a qualified majority of all Members is required to be taken, the General Council may decide, upon request from a Member or the suggestion of the Chairperson, that the vote be taken by airmail ballots or ballots transmitted by telegraph or telefacsimile in accordance with the procedures described in Annex 1 to these Rules.

Chapter VIII — Languages

Rule 35

English, French and Spanish shall be the working languages.

Chapter IX — Records

Rule 36

Records of the discussions of the General Council shall be in the form of minutes. ³

Chapter X — Publicity of meetings

Rule 37

The meetings of the General Council shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.

Rule 38

After a private meeting has been held, the Chairperson may issue a communiqué to the Press.

Chapter XI — Revision

³The customary practice under the GATT 1947, whereby representatives may, upon their request, verify those portions of the draft records containing their statements, prior to the issuance of such records, shall be continued.
Rule 39

The General Council may decide at any time to revise these rules or any part of them.
ANNEX 1

RULES FOR AIRMAIL BALLOTS AND BALLOTS TRANSMITTED BY TELEGRAPH OR TELEFACSIMILE

In any case where the Ministerial Conference or the General Council decides that a vote be taken by airmail ballots or ballots transmitted by telegraph or telefacsimile, ballot papers shall be distributed to representatives of Members present at the meeting and a notice shall be sent to each Member. The notice shall contain such information as the Chairperson considers necessary and a clear statement of the question to which each Member shall be requested to answer "yes" or "no".

The Chairperson of the Ministerial Conference or the General Council shall determine the date and hour by which votes must be received. The time-limit shall be set at no later than 30 days after the date the notice is sent. Any Member from which a vote has not been received within such time-limit shall be regarded as not voting.

Members entitled to participate in a vote by airmail ballots or ballots transmitted by telegraph or telefacsimile are those which are Members at the time of the decision to submit the matter in question to a vote.
ANNEX 2
GUIDELINES FOR OBSERVER STATUS FOR GOVERNMENTS IN THE WTO

1. Governments seeking observer status in the Ministerial Conference shall address a communication to that body indicating their reasons for seeking such status. Such requests shall be examined on a case-by-case basis by the Ministerial Conference.

2. Governments accorded observer status at sessions of the Ministerial Conference shall not automatically have that status at meetings of the General Council or its subsidiary bodies. However, governments accorded such status in the General Council and its subsidiary bodies in accordance with the procedures described below, shall be invited to attend sessions of the Ministerial Conference as observers.

3. The purpose of observer status in the General Council and its subsidiary bodies is to allow a government to better acquaint itself with the WTO and its activities, and to prepare and initiate negotiations for accession to the WTO Agreement.

4. Governments wishing to request observer status in the General Council shall address to that body a communication expressing the intent to initiate negotiations for accession to the WTO Agreement within a maximum period of five years, and provide a description of their current economic and trade policies, as well as any intended future reforms of these policies.

5. The General Council shall examine requests for observer status by governments on a case-by-case basis.

6. Observer status in the General Council shall be granted initially for a period of five years. In addition to being invited to sessions of the Ministerial Conference, governments with observer status in the General Council may participate as observers at meetings of working parties and other subsidiary bodies of the General Council as appropriate, with the exception of the Committee on Budget, Finance and Administration.

7. During its period of observership, an observer government shall provide the Members of the WTO with any additional information it considers relevant concerning developments in its economic and trade policies. At the request of any Member or the observer government itself, any matter contained in such information may be brought to the attention of the General Council after governments have been allowed sufficient time to examine the information.

8.(a) If, at the end of five years, an observer government has not yet initiated a process of negotiation with a view to acceding to the WTO Agreement, it may request an extension of its status as observer. Such a request shall be made in writing and shall be accompanied by a comprehensive, up-dated description of the requesting government's current economic and trade policies, as well as an indication of its future plans in relation to initiating accession negotiations.

(b) Upon receiving such a request, the General Council shall review the situation, and decide upon the extension of the status of observer and the duration of such extension.

9. Observer governments shall have access to the main WTO document series. They may also request technical assistance from the Secretariat in relation to the operation of the WTO system in general, as well as to negotiations on accession to the WTO Agreement.

10. Representatives of governments accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to
speak does not include the right to make proposals, unless a government is specifically invited to do so, nor to participate in decision-making.

11. Observer governments shall be required to make financial contributions for services provided to them in connection with their observer status in the WTO, subject to financial regulations established pursuant to Article VII:2 of the WTO Agreement.
ANNEX 3

OBERVER STATUS FOR INTERNATIONAL INTERGOVERNEMENTAL ORGANIZATIONS IN THE WTO

1. The purpose of observer status for international intergovernmental organizations (hereinafter referred to as "organizations") in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them.

2. Requests for observer status shall accordingly be considered from organizations which have competence and a direct interest in trade policy matters, or which, pursuant to paragraph V:1 of the WTO Agreement, have responsibilities related to those of the WTO.

3. Requests for observer status shall be made in writing to the WTO body in which such status is sought, and shall indicate the nature of the work of the organization and the reasons for its interest in being accorded such status. Requests for observer status from organizations shall not, however, be considered for meetings of the Committee on Budget, Finance and Administration or of the Dispute Settlement Body.⁴

4. Requests for observer status shall be considered on a case-by-case basis by each WTO body to which such a request is addressed, taking into account such factors as the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization has been associated in the past with the work of the CONTRACTING PARTIES to GATT 1947.

5. In addition to organizations that request, and are granted, observer status, other organizations may attend meetings of the Ministerial Conference, the General Council or subsidiary bodies on the specific invitation of the Ministerial Conference, the General Council or the subsidiary body concerned, as the case may be. Invitations may also be extended, as appropriate and on a case-by-case basis, to specific organizations to follow particular issues within a body in an observer capacity.

6. Organizations with which the WTO has entered into a formal arrangement for cooperation and consultation shall be accorded observer status in such bodies as may be determined by that arrangement.

7. Organizations accorded observer status in a particular WTO body shall not automatically be accorded such status in other WTO bodies.

8. Representatives of organizations accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to circulate papers or to make proposals, unless an organization is specifically invited to do so, nor to participate in decision-making.

9. Observer organizations shall receive copies of the main WTO documents series and of other documents series relating to the work of the subsidiary bodies which they attend as observers. They may receive such additional documents as may be specified by the terms of any formal arrangements for cooperation between them and the WTO.

⁴These guidelines shall apply also to other organizations referred to by name in the WTO Agreement.

⁵In the case of the IMF and the World Bank, their requests for attendance as observers to the DSB will be acted upon in accordance with the arrangements to be concluded between the WTO and these two organizations.
10. If for any one-year period after the date of the grant of observer status, there has been no attendance by the observer organization, such status shall cease. In the case of sessions of the Ministerial Conference, this period shall be two years.
WORKING PROCEDURES OF THE COMMITTEE¹

Adopted by the Committee at its Meeting of 29-30 March 1995

Meetings of the Committee

1. The Committee shall meet to carry out the functions necessary to implement the provisions of the Agreement, or such other tasks which it may be required to deal with.

2. Notice of meetings of the Committee and a draft agenda shall be issued at least 10 days prior to the date of the meeting. It shall be open to any Member to request, in writing to the Secretariat, the inclusion of items under the proposed agenda up to, but not including, the day on which the notice convening the meeting is to be issued.

3. Matters relating to notifications, including notifications considered at previous meetings, can be raised or reverted to in the course of any meeting. A Member which proposes to raise any matter relating to a particular notification in the course of a meeting shall give notice of its intention to the notifying Member concerned and the Secretariat, together with an outline of its concerns, as far as possible in advance of the meeting.

4. The Committee shall hold at least two meetings per year. Each meeting shall provisionally schedule the dates and agenda for the next meeting. Additional meetings of the Committee may be scheduled as appropriate.

¹ These working procedures are to apply until consideration of this matter by the Committee at its second meeting.
5. At the request of a Member, or at his/her own initiative, and where the matter involved is one of significant importance or urgency, the Chairperson may, unless it is considered that resort to other procedures would be more appropriate, convene a special meeting of the Committee.

Other Matters

6. With respect to any matter which has been raised under the Agreement, the Chairperson may, at the request of the Members directly concerned, assist them in dealing with the matter in question. The Chairperson shall normally report to the Committee on the general outcome with respect to the matter in question.

7. Representatives of the FAO/WHO Codex Alimentarius Commission (Codex), the Office international des epizooties (OIE) and the FAO Secretariat for the International Plant Protection Convention (IPPC) will be invited to attend meetings as observers, pending the final decision by the General Council. Representatives of other international intergovernmental organizations may be invited by the Committee to attend meetings as observers in accordance with the guidelines to be adopted by the General Council. Notwithstanding the above, the Committee may, as appropriate, decide to hold restricted sessions with participation of Members only.
Committee on Sanitary and Phytosanitary Measures

REVISION OF THE PROCEDURE TO
MONITOR THE PROCESS OF INTERNATIONAL HARMONIZATION

Decision of the Committee

Revision

At its meeting of 27-28 October 2004, the Committee adopted modifications to the provisional procedure to monitor the use of international standards, which had initially been adopted by the Committee in October 1997.

Introduction

1. Articles 3.5 and 12.4 of the SPS Agreement require the Committee to develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. With the aim of encouraging Members to use international standards, guidelines and recommendations, the underlying purpose of this procedure is to identify where there is a major impact on trade resulting from the non-use of those international standards, guidelines or recommendations and to determine the reasons for the non-use of the standard, guideline or recommendation concerned. Moreover, it should also help to identify, for the benefit of the relevant international organizations, where a standard, guideline or recommendation was needed or was not appropriate for its purpose and use. This requires (a) identification of the international standards, guidelines or recommendations of concern or an identification of the cases where an international standard, guideline or recommendation was required; and (b) information from Members on their use or non-use of the identified standards, guidelines or recommendations, and the reasons therefore. In the light of Members' reasons for non-use, the SPS Committee might want to invite the relevant international standard-setting body to consider reviewing the existing standard, guideline or recommendation.

2. The development of a monitoring procedure was discussed at every formal meeting of the SPS Committee from 1995 to October 1997. Three submissions from Members suggested possible approaches: G/SPS/W/51 from the European Communities (March 1996), G/SPS/W/76 from the United States (October 1996) and G/SPS/W/81 from the United States (March 1997). During the discussion of these various submissions participants made it clear that they did not want a burdensome procedure, that duplication of the work undertaken by the relevant standard-setting bodies must be avoided, and that the monitoring procedure should focus on those standards, guidelines or recommendations that have a major impact on trade. On the basis of these concerns, and to avoid further delays, in July 1997 the Chairperson proposed a provisional procedure (G/SPS/W/82) and requested comments on this (reflected in G/SPS/W/82/Rev.1 and G/SPS/W/85).
3. At its meeting of 15-16 October 1997, the Committee agreed to implement the following monitoring procedure on a provisional basis. The proposal is drawn from the submissions by the Members mentioned above, as well as from the discussion in the Committee on these submissions. The Committee also agreed to review the operation of the provisional monitoring procedure 18 months after its implementation, with a view to deciding at that time whether to continue with the same procedure, amend it or develop another one.\(^1\)

**Monitoring Procedure**

4. In the initial stages, the scope of the monitoring system will be limited to the standards, guidelines or recommendations developed by the international organizations specifically cited in the SPS Agreement.\(^2\) The Committee may, at a subsequent stage and if the need arises, consider standards, guidelines or recommendations produced by other relevant international organizations.

5. The international standards, guidelines or recommendations proposed by a Member to be monitored (see paragraph 6), on the basis of the lists available to the Committee\(^3\), should be limited to those which have a major trade impact. The trade impact of an international standard, guideline or recommendation should be determined primarily on the basis of the extent to which Members use the standard (apply it to imports) and the frequency or severity of problems experienced in the trade of the goods covered by the standard.

6. Members should submit, at least ten days in advance of each regular meeting of the Committee, concrete examples of what they consider to be problems with a significant trade impact which they believe are related to the use or non-use of relevant international standards, guidelines or recommendations.\(^4\) In their submissions, Members should describe the nature of each of these trade problems and note whether it is the result of:

   (a) the non-use of an appropriate existing international standard, guideline or recommendation; or

   (b) the non-existence or inappropriateness of an existing international standard, guideline or recommendation, i.e. that it is out-dated, technically flawed, etc.

7. The standards, guidelines or recommendations identified by Members as above will be identified on the proposed agenda for the Committee meeting. The Secretariat should circulate the submissions it has received to all Members, as much in advance of the Committee's meeting as possible, in order to provide Members with the opportunity to prepare comments on their use or non-use of the standards, guidelines or recommendations and the reasons therefore. Should any Member so request, the Secretariat will not include in its annual report on this monitoring procedure (see paragraph 10) any specific issue raised in these submissions until Members have had the opportunity to provide further comments and to discuss those comments in one additional Committee meeting subsequent to the meeting in which the issue is first raised.

8. Based on the information provided by Members, and in the light of discussion in the Committee, a list of standards, guidelines or recommendations which have a major impact on international trade shall be established by the Committee. This list shall be reviewed at each meeting.

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\(^1\) Through Decisions of the Committee in July 1999 (G/SPS/14), July 2001 (G/SPS/17) and July 2003 (G/SPS/25), the Committee has extended the provisional procedure until July 2006.

\(^2\) Codex, OIE and IPPC

\(^3\) G/SPS/GEN/512 (OIE), G/SPS/GEN/513 (IPPC) and G/SPS/GEN/514 (Codex).

\(^4\) Although no format has been adopted by the Committee, the format proposed in G/SPS/W/87 received considerable support from Members and has been widely used.
of the Committee. Members should provide information, for each of the standards, guidelines or recommendations identified, of any relevant trade impact, and on their use or non-use of the standard, guideline or recommendation and the reasons therefore.\(^5\) The Committee may invite the relevant international standard-setting body to consider reviewing the existing standard, guideline or recommendation.

9. The Committee may invite the relevant standard-setting body to provide information, either in writing or through presentations at the relevant regular meeting of the Committee, on any standard, guideline or recommendation under consideration, including with regard to any changes or on-going revisions.

10. The Secretariat should prepare an annual report to the Committee on the list of standards, guidelines or recommendations established under paragraph 8, the major trade impacts identified by Members and their comments regarding the use or non-use of the identified international standards, guidelines or recommendations and of those cases identified where there was no international standard, guideline or recommendation, and any conclusions drawn by the Committee. The Committee will transmit this report to the international organizations responsible for developing the relevant sanitary and phytosanitary standards, guidelines or recommendations. It is expected that Members will take this information into account, through their participation in these international organizations, in establishing those organizations’ work priorities.

**Further Action**

11. Following the review noted in paragraph 3 of the operation of this provisional monitoring procedure, the Committee may want at a later stage to consider the need for a more focused monitoring procedure. In particular, the Committee may wish to consider developing standard formats for the supply of information under paragraphs 6-8\(^6\), and using those standards, guidelines or recommendations which have been identified as having a major impact on international trade and are of widespread concern to Members (paragraph 8 refers) as the basis for a pilot project to obtain additional information as to how Members are dealing with the standards, guidelines or recommendations of concern.

\(^5\) See G/SPS/W/100.
\(^6\) See footnote 4.
DEcision to modify and extend the provisional procedure to monitor the process of international harmonization

Adopted on 28 June 2006

The Committee on Sanitary and Phytosanitary Measures,

Having regard to Articles 3.5 and 12.4 of the SPS Agreement;

Taking into account the provisional procedure to monitor the use of international standards adopted by the Committee at its meeting of 15-16 October 1997 and as subsequently revised on 27-28 October 2004 (G/SPS/11/Rev.1); the Committee's decisions of July 1999, July 2001 and of June 2003 to extend this provisional procedure, and to decide by July 2006 whether to continue with the same procedure, amend it or develop another one (G/SPS/25);

Considering that in reviewing the operation of the provisional procedure, it has noted that the procedure provided an effective mechanism for Members to raise specific standards-related issues;

Considering that at the Fourth Session of the Ministerial Conference, Ministers instructed the Committee to review the operation and implementation of the Agreement, as provided for in Article 12.7 of the Agreement, at least once every four years;

Considering that this procedure to monitor the use of international standards is related to the operation and implementation of the Agreement;

Decides as follows:

1. The provisional procedure to monitor the use of international standards, as modified, is extended indefinitely.

2. The Committee will review the operation of the provisional procedure as an integral part of its periodic Review of the Operation and Implementation of the Agreement under Article 12.7, with a view to deciding whether to continue with the same procedure, amend it or develop another one. The next such Review is to be completed in 2009, and every four years subsequently.

3. The Committee encourages Members to make use of this procedure to address their concerns regarding specific international standards or the need for such standards.
DECISION ON THE IMPLEMENTATION OF ARTICLE 4
OF THE AGREEMENT ON THE APPLICATION OF SANITARY
AND PHYTOSANITARY MEASURES

Revision 1

The Committee on Sanitary and Phytosanitary Measures,

Having regard to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures;

In response to the request from the General Council that the Committee examine the concerns of developing country Members regarding the equivalence of sanitary or phytosanitary measures and develop concrete options as to how to deal with them;

Reaffirming the right of Members to establish sanitary and phytosanitary measures necessary to ensure the protection of human, animal and plant life or health and the protection of their territory from other damage caused by the entry, establishment or spread of pests, in accordance with the Agreement on the Application of Sanitary and Phytosanitary Measures;

Desiring to make operational the provisions of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures;

Noting that equivalence of sanitary or phytosanitary measures does not require duplication or sameness of measures, but the acceptance of alternative measures that meet an importing Member's appropriate level of sanitary or phytosanitary protection;

Recognizing that equivalence can be applied between all Members, irrespective of their level of development;

Noting that Members have faced difficulties applying the provisions of Article 4 recognizing the equivalence of sanitary and phytosanitary measures;

Taking into account the specific concerns raised by developing country Members, and particularly the least developed among them, regarding their difficulties in having the equivalence of their sanitary or phytosanitary measures accepted by importing Members;

1 This revision provides updated information with respect to actions taken pursuant to the Decision as adopted on 26 October 2001. This information is provided in footnotes to the relevant provisions in the Decision.
Recognizing the importance of minimizing possible negative effects of sanitary or phytosanitary measures on trade and of improving market access opportunities, particularly for products of interest to developing country Members;

Recognizing that transparency, exchange of information and confidence-building by both the importing and exporting Member are essential to achieving an agreement on equivalence;

Recognizing that there may be other less resource-intensive and time-consuming means for Members to enhance trade opportunities;

Decides as follows:

1. Equivalence can be accepted for a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis. Members shall, when so requested, seek to accept the equivalence of a measure related to a certain product or category of products. An evaluation of the product-related infrastructure and programmes within which the measure is being applied may also be necessary. Members may further, where necessary and appropriate, seek more comprehensive and broad-ranging agreements on equivalence. The acceptance of the equivalence of a measure related to a single product may not require the development of a systems-wide equivalence agreement.

2. In the context of facilitating the implementation of Article 4, on request of the exporting Member, the importing Member should explain the objective and rationale of the sanitary or phytosanitary measure and identify clearly the risks that the relevant measure is intended to address. The importing Member should indicate the appropriate level of protection which its sanitary or phytosanitary measure is designed to achieve. The explanation should be accompanied by a copy of the risk assessment on which the sanitary or phytosanitary measure is based or a technical justification based on a relevant international standard, guideline or recommendation. The importing Member should also provide any additional information which may assist the exporting Member to provide an objective demonstration of the equivalence of its own measure.

3. An importing Member shall respond in a timely manner to any request from an exporting Member for consideration of the equivalence of its measures, normally within a six-month period of time.

4. The exporting Member shall provide appropriate science-based and technical information to support its objective demonstration that its measure achieves the appropriate level of protection identified by the importing Member. This information may include, inter alia, reference to relevant international standards, or to relevant risk assessments undertaken by the importing Member or by another Member. In addition, the exporting Member shall provide reasonable access, upon request, to the importing Member for inspection, testing and other relevant procedures for the recognition of equivalence.

5. The importing Member should accelerate its procedure for determining equivalence in respect of those products which it has historically imported from the exporting Member.

The Committee agrees that historic trade provides an opportunity for an importing Member to become familiar with the infrastructure and measures of an exporting Member.

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2 Product-related infrastructure and programmes is in reference to testing, inspection and other relevant requirements specific to product safety.

3 In doing so, Members should take into account the Guidelines to Further the Practical Implementation of Article 5.5 adopted by the Committee on Sanitary and Phytosanitary Measures at its meeting of 21-22 June 2000 (document G/SPS/15, dated 18 July 2000).
Member, and to develop confidence in the regulatory procedures of that Member. This information and experience, if directly relevant to the product and measure under consideration, should be taken into account in the recognition of equivalence of measures proposed by the exporting Member. In particular, information already available to the importing Member should not be sought again with respect to procedures to determine the equivalence of measures proposed by the exporting Member.

An importing Member should consider the relevant information and experience that the sanitary and phytosanitary services have on the measure(s) for which recognition of equivalence is requested as applied to the product for which that request relates.

This information and experience refers to:

(i) The historic knowledge and confidence that the competent authority of the importing Member has of the competent authority of the exporting Member.

(ii) The existence of an evaluation and recognition of the products-related system of inspection and certification of the exporting Member by the importing Member.

(iii) The available scientific information supporting the request for the recognition of equivalence.

The more such relevant information and experience is available to the importing Member, the more rapid should be the procedure for recognition of equivalence by that Member.

A Member should consider the existence of information between competent authorities related to sanitary and phytosanitary measures of other products (different from the one for which equivalence is requested) when this information is useful.

A Member should consider the risk of the product to which the sanitary and phytosanitary measures are applied, in order to reduce requirements and accelerate the procedure in cases of low risk.

The importing Member should not seek again information already available with respect to the determination of the equivalence of sanitary and phytosanitary measures proposed by the exporting Member, unless this information needs to be updated.

For accelerated procedures, the importing Member should estimate the steps that the demonstration of equivalence will require, and inform the exporting Member, when it is possible, of an estimated time schedule for the whole process. These steps should be considered between the exporting and importing Members, on an issue-by-issue basis, in order to give predictability to the process of determination of equivalence.

When more than one agency is involved, the relevant requirements of all of these agencies must be taken into account and included in the steps and timetable identified above.
The Committee notes that the importance of this knowledge based on historic trade has been fully recognized in the draft FAO/WHO Joint Codex Alimentarius Commission Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems. The Committee further notes that the importance of such prior experience is also recognized in the draft paper of the World Organization for Animal Health (OIE) on the Judgement of Equivalence of Sanitary Measures relating to International Trade in Animals and Animal Products. The Committee encourages that further elaboration of specific guidance by these organizations should ensure that such recognition is maintained.

The Committee draws the attention of the Interim Commission on Phytosanitary Measures (ICPM) to the Decision on Equivalence (G/SPS/19), and to the above clarification with respect to Paragraph 5 of the Decision. The Committee requests that the ICPM take into consideration the Decision and this clarification in its future work on judgement of equivalence with regard to sanitary measures to address plant pests and diseases.

6. The consideration by an importing Member of a request by an exporting Member for recognition of the equivalence of its measures with regard to a specific product shall not be in itself a reason to disrupt or suspend on-going imports from that Member of the product in question.

The Committee agrees that since a request for recognition of equivalence does not in itself alter the way in which trade is occurring, there is no justification for disruption or suspension of trade. If an importing Member were to disrupt or suspend trade solely because it had received a request for an equivalence determination, it would be in apparent violation of its obligations under the SPS Agreement (e.g. under Article 2).

At the same time, a request for recognition of equivalence does not impede the right of an importing Member to take any measure it may decide is necessary to achieve its appropriate level of protection, including in response to an emergency situation. However, if the decision to impose some additional control measure were to coincide with consideration by the same Member of a request for recognition of equivalence, this might lead an exporting Member whose trade is affected to suspect that the two events were linked. To avoid any misinterpretation of this kind, the Committee recommends that the importing Member should give an immediate and comprehensive explanation of the reasons for its action in restricting trade to any other Members affected, and that it should also follow the normal or emergency notification procedures established under the SPS Agreement.

The Committee notes that this issue has been addressed also in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems, and should encourage the maintenance of such a provision in the further elaboration of specific guidance by the Codex.
Committee draws the attention of the World Organization for Animal Health (OIE) and the Interim Commission on Phytosanitary Measures (ICPM) to the above clarification with respect to Paragraph 6 of the Decision on Equivalence, and requests that the OIE and the ICPM take this clarification into consideration in their future work on equivalence with regard to sanitary or phytosanitary measures. 5,6

7. When considering a request for recognition of equivalence, the importing Member should analyze the science-based and technical information provided by the exporting Member on its sanitary or phytosanitary measures with a view to determining whether these measures achieve the level of protection provided by its own relevant sanitary or phytosanitary measures.

The Committee notes that conscientious implementation of the Guidelines to Further the Practical Implementation of Article 5.5 (G/SPS/15) will assist Members in determining equivalence.

The Committee further notes that the relationship between the level of protection provided by the importing Member’s own measures and what it requires from imported products has been explicitly addressed in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems. 4,7 The Committee notes that the OIE Guidelines for Reaching a Judgement of Equivalence of Sanitary Measures also recognizes the importance of facilitating comparison of the exporting and importing Members' measures. The Committee agrees that Members should consider the Codex approach of establishing an objective basis for comparison or the similar OIE approach when determining the equivalence of sanitary measures.

The Committee encourages the FAO/WHO Codex Alimentarius Commission and the World Organization for Animal Health to ensure that the recognition of the importance of facilitating comparison of the exporting and importing Members' measures is maintained in any elaboration of guidance by these organizations.

The Committee requests that the Interim Commission on Phytosanitary Measures (ICPM) take into consideration the Decision on Equivalence and this clarification in its future work on judgement of equivalence with regard to measures to address plant pests and diseases.

The Committee agrees that where the objective basis for comparison, or a similar approach established by a relevant international organization, demonstrates that the level of protection achieved by the importing Member's sanitary or phytosanitary measure differs from its appropriate level of protection, the importing Member should resolve this difference independently of the procedure for determination of equivalence.

If the exporting Member demonstrates by way of an objective basis of comparison or similar approach established by a relevant international organization that its measure has the same effect in achieving the objective as the importing Member's measure, the importing Member should recognize both measures as equivalent.

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7 The Committee recognizes that the Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems are also relevant in this regard.
8. In accordance with Article 9 of the Agreement on the Application of Sanitary and Phytosanitary Measures, a Member shall give full consideration to requests by another Member, especially a developing country Member, for appropriate technical assistance to facilitate the implementation of Article 4. This assistance may, inter alia, be to help an exporting Member identify and implement measures which can be recognized as equivalent, or to otherwise enhance market access opportunities. Such assistance may also be with regard to the development and provision of the appropriate science-based and technical information referred to in paragraph 4, above.

9. Members should actively participate in the ongoing work in the Codex Alimentarius Commission on the issue of equivalence, and in any work related to equivalence undertaken by the World Organization for Animal Health and in the framework of the International Plant Protection Convention. Bearing in mind the difficulties faced by developing country Members to participate in the work of these bodies, Members should consider providing assistance to facilitate their participation.

10. The Committee on Sanitary and Phytosanitary Measures recognizes the urgency for the development of guidance on the judgement of equivalence and shall formally encourage the Codex Alimentarius Commission to complete its work with regard to equivalence as expeditiously as possible. The Committee on Sanitary and Phytosanitary Measures shall also formally encourage the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures to elaborate guidelines, as appropriate, on equivalence of sanitary and phytosanitary measures and equivalence agreements in the animal health and plant protection areas. The Codex Alimentarius Commission, the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures shall be invited to keep the Committee on Sanitary and Phytosanitary Measures regularly informed regarding their activities relating to equivalence.

11. The Committee on Sanitary and Phytosanitary Measures shall revise its recommended notification procedures to provide for the notification of the conclusion of agreements between Members which recognize the equivalence of sanitary and phytosanitary measures. Furthermore, the procedures shall reinforce the existing obligation in paragraph 3(d) of Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures for national Enquiry Points to provide information, upon request, on the participation in any bilateral or multilateral equivalence agreements of the Member concerned.

12. Members should regularly provide to the Committee on Sanitary and Phytosanitary Measures information on their experience regarding the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures. In particular, Members are encouraged to inform the Committee on Sanitary and Phytosanitary Measures of the successful conclusion of any bilateral equivalence agreement or arrangement. The Committee on Sanitary and Phytosanitary Measures shall consider establishing a standing agenda item for its regular meetings for this purpose.

13. The Committee on Sanitary and Phytosanitary Measures shall develop a specific programme to further the implementation of Article 4, with particular consideration of the problems encountered by developing country Members. In this respect, the Committee on Sanitary and Phytosanitary Measures shall review this decision in light of the relevant work undertaken by the Codex

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8 G/SPS/7/Rev.2 and Rev.2/Add.1.
9 In the light of this paragraph and the decision at the Fourth Ministerial Conference regarding implementation-related issues and concerns (WT/MIN(01)17, paragraph 3.3), the SPS Committee adopted a programme for further work on equivalence at its meeting of 19-21 March 2002 (G/SPS/20). The Committee completed this work programme in March 2004 but agreed that equivalence would be a standing agenda item for its regular meetings.
Alimentarius Commission, the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures, as well as the experience of Members.

14. The Committee on Sanitary and Phytosanitary Measures requests that the General Council take note of this decision.
GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF ARTICLE 5.5

At its meeting of 21-22 June 2000, the Committee adopted\(^1\) the following guidelines called for in Article 5.5 of the Agreement on the Application of Sanitary and Phytosanitary Measures to further the practical implementation of that provision.

INTRODUCTION

Article 5.5 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement") states that:

*With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.*

The following guidelines are intended to provide assistance to Members in the practical implementation of the provisions of Article 5.5 of the SPS Agreement. These guidelines do not add to nor detract from the existing rights and obligations of Members under the SPS Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the Agreement itself. The guidelines are without prejudice to the right of a Member to determine its appropriate level of sanitary and phytosanitary protection against risks to human life or health, or to animal and plant life or health.\(^2\)

The guidelines address the two elements within Article 5.5: (1) the objective of achieving consistency in the application of the concept of the appropriate level of protection and (2) the obligation

\(^1\) At its meeting, the Committee adopted the guidelines on an ad referendum basis. Members who objected to the adoption of the guidelines were asked to make this known by 14 July 2000. No objections were raised by that date.

\(^2\)"Risk" in the context of the SPS Agreement refers to the *likelihood* that an adverse event (pest or disease) will occur and the *magnitude of the associated potential consequences* on plant or animal life or health of the adverse event, or to the *potential for adverse effects* on human or animal life or health from food-borne risks. See paragraph 4, Annex A of the SPS Agreement.
to avoid arbitrary or unjustifiable distinctions in the levels considered appropriate if such distinctions result in discrimination or a disguised restriction on international trade. The determination of the appropriate level of protection is an element in the decision-making process which logically precedes the selection and use of one or more sanitary or phytosanitary measures. The following guidelines therefore address the application of the concept of the appropriate level of protection, and subsequently its practical implementation.

The comments accompanying the guidelines are designed to facilitate understanding of the guidelines through the provision of examples and further clarifications. These comments and examples are purely illustrative and not intended to be exclusive or complete.

The guidelines will be reviewed periodically and revised as necessary by the SPS Committee in the light of experience gained through the implementation of the SPS Agreement, the use of the guidelines themselves and any pertinent work done by the relevant international standard-setting organizations. The Committee should undertake a first review of the guidelines within 36 months of their adoption by the Committee and thereafter as the need arises.

A. APPLICATION OF THE CONCEPT OF THE APPROPRIATE LEVEL OF PROTECTION

A.1. A Member should indicate the level of protection which it considers to be appropriate with respect to risks to human life or health, to animal life or health or to plant life or health in a sufficiently clear manner so as to permit examination of the extent to which any sanitary or phytosanitary measure achieves that level.

Such an indication may be contained in a published statement or other text generally available to interested parties. The statement of the appropriate level of protection may be qualitative or quantitative, and should serve to guide its consistent implementation over time, and also to increase the transparency of the sanitary or phytosanitary regime. Examples might include government policy statements with regard to appropriate levels of protection in response to certain risks, or documents on animal health protection objectives or with respect to plant protection. The use of quantitative terms, where feasible, to describe the appropriate level of protection can facilitate the identification of arbitrary or unjustified distinctions in levels deemed appropriate in different situations.

A.2. A Member should, when determining an appropriate level of protection, either as an overall policy objective or for a specific situation, consider:

- whether there is a difference between the level of protection under consideration and levels already determined by the Member in different situations and, if so,
- whether these differences are arbitrary or unjustifiable, and, if so,
- whether they may result in discrimination or in a disguised restriction on international trade.

The comparison of levels of protection in different situations requires the existence of sufficient common elements to render them comparable and must be performed on a case-by-case basis. In the case of protection of plant or animal life or health from pests or disease, situations might be compared if they involve either the risk of entry,

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3 As indicated in Annex A, paragraph 3.
establishment or spread of the same or a similar disease, or the risk of the same or similar associated potential biological and economic consequences. In the case of protection of human life or health from specific risks, i.e. food-borne risks, or of animal life or health from risks arising from feedstuffs, situations involving the same type of substance or pathogen, and/or the same type of adverse health effect, could be compared to one another.

The determination of whether differences in appropriate levels of protection are arbitrary or unjustifiable depends on the particular case and has to be determined on a case-by-case basis. The establishment of different levels of protection in the face of similar risks in different situations may raise the question as to whether the differences in the levels of protection are arbitrary or unjustifiable.

The determination of whether arbitrary or unjustifiable differences in levels of protection established by a Member in different situations do in fact result in discrimination or a disguised restriction on trade should be examined in the context of the circumstances of each case, including the potential effects on international trade. Although no precise definition of "discrimination or a disguised restriction on international trade" currently exists, cumulative occurrence of the following "warning signals" could indicate the existence of discrimination or a disguised restriction on trade:

- substantial differences in the levels of protection considered to be appropriate in different situations;
- the existence of arbitrary or unjustifiable differences in the levels of protection considered by a Member as appropriate in different situations;
- the absence of a scientific justification for a sanitary or phytosanitary measure applied allegedly to achieve the appropriate level of protection, or the fact that a measure is not based on a risk assessment as appropriate to the circumstances (either because there is no risk assessment or because there is an insufficient risk assessment).

A.3. A Member should establish clear and effective communication and information flows within and between the authorities responsible for the determination of appropriate levels of protection.

An important element in seeking to ensure that decisions on an appropriate level of protection meet the provisions of Article 5.5 is information and communication. The authorities responsible for the preparation and implementation of such decisions should be aware of relevant decisions taken by that Member in other cases, and particularly in situations comparable to the one at hand.

A.4. To avoid arbitrary or unjustifiable differences in the level of protection a Member considers to be appropriate in different situations, a Member should compare any proposed decision on the level of protection in a particular situation with the level it has previously considered or is considering to be appropriate in situations which contain sufficient common elements so as to render them comparable with regard to human life or health, to animal life or health, or to plant life or health.

It can be useful to compare a proposed appropriate level of protection with previous decisions, including those that might have been taken in an ad hoc fashion, to ensure
that any differences in levels of protection applied in a similar situation are justifiable and would not result in discrimination or a disguised restriction on international trade. If differences are observed in comparable situations, either the proposed level may need to be modified, or the level of protection previously determined may need to be revised in light of the Member's current views on its appropriate level of protection, or a combination of the two.

What a Member is comparing are the levels of protection against the risks posed by potential hazards to human, animal or plant life or health. Risk in the context of the SPS Agreement refers to the likelihood that an adverse event (pest or disease) will occur and the magnitude of the associated potential consequences on plant or animal life or health of the adverse event, or to the potential for adverse effects on human or animal life or health from food-borne risks. (See paragraph 4, Annex A of the SPS Agreement.) Accordingly, categorizing risks as "similar" must include a comparison of both the relevant likelihood and the corresponding consequences. To facilitate comparison of levels of protection considered appropriate in different situations, Members may wish to categorize the various risks they are examining into groups of what they consider to be similar. (See also the first comment to guideline A2.)

The comparison of the levels of protection considered appropriate in one situation with those considered appropriate in another situation can be facilitated if the potential damage is expressed in common terms, whether qualitative or quantitative. Where feasible, use of quantitative terms and/or common units can facilitate comparisons.

A.5. In determining a new or modified appropriate level of protection, a Member should review its previous decisions regarding appropriate levels of protection in the light of the objectives and obligations of Article 5.5, taking into account current decisions and developments.

In undertaking this review, a Member may wish to give priority to the review and revision, as necessary, of those decisions which most substantially deviate from the objectives and obligations of Article 5.5 and which may have the most negative impact on international trade.

Unless changes are made at the same time to all its comparable decisions on appropriate levels of protection, a Member may find it difficult to avoid (at least temporary) unjustifiable differences in levels of protection.

A Member should review its previous decisions on appropriate levels of protection at suitable intervals.

A.6. In determining a new or modified appropriate level of protection a Member may find it helpful to examine any relevant international standards, guidelines or recommendations, or decisions taken by other Members facing similar risks and situations.

Notwithstanding that it is the right of each Member to determine its appropriate level of protection and that there is no obligation for a Member to harmonize its level of protection with that of other Members, comparisons with the level of protection other Members have considered appropriate when addressing similar risks and situations may assist a Member in making its own decision.

Likewise, significant differences between the level of protection which would result from the application of the relevant international standard, guideline or recommendation
and the level of protection which a Member is considering may prompt the Member to re-consider its proposed level of protection.

A.7. A Member may consider seeking expert advice to contribute to its decision-making process with regard to the determination of a new or modified appropriate level of protection.

Advice may be sought from recognized, qualified experts, and could include commenting on any unjustifiable distinctions in levels of protection, potential discriminatory trade effects or other aspects related to consistency in the application of its appropriate level of protection. A Member may seek assistance from the relevant international standard-setting organizations in identifying appropriate experts.

A.8. A Member should clearly identify those situations which it considers justify its acceptance exceptionally of a lower level of protection for human health specifically with respect to risks to which people voluntarily expose themselves.

Reasons for a significant difference in a proposed or accepted level of protection for human health may, in exceptional circumstances, include a risk which humans voluntarily accept. Such circumstances might arise with respect to traditional foods or some other products for which consumers knowingly accept a higher risk than that generally considered to be appropriate for food products.\textsuperscript{4}

B. PRACTICAL IMPLEMENTATION OF THE CONCEPT OF AN APPROPRIATE LEVEL OF PROTECTION

The SPS Agreement does not contain explicit provisions which oblige a Member to determine its appropriate level of protection, although there is an implicit obligation to do so. In practice, and for various reasons, Members are not always able to indicate precisely their appropriate level of protection. In such cases, the appropriate level of protection may be determined on the basis of the level of protection reflected in the sanitary or phytosanitary measures in place. Therefore, to further the practical implementation of this provision, the following guidelines address the selection and use of measures. This is without prejudice to the other provisions of the SPS Agreement which relate to measures, which the Committee may decide to address separately.

B.1. A Member should establish clear and effective communication and information flows within and between the authorities responsible for the determination of appropriate levels of protection, and those responsible for the selection and implementation of sanitary or phytosanitary measures designed to achieve the appropriate level of protection.

Since the concept of appropriate level of protection is applied in practice through sanitary or phytosanitary measures, communication and transparency between the government authorities responsible for the selection and implementation of sanitary or phytosanitary measures and those responsible for the determination of the appropriate level of protection is an important element in enhancing consistency.

\textsuperscript{4} Examples which were identified during the negotiation of this provision include the consumption of alcoholic beverages, or substantial consumption of some traditional foods such as smoked fish, or of varieties of fish known to be toxic.
B.2. A Member should establish common approaches or consistent procedures for use by the authorities assessing risks and evaluating the measures which might be applied to achieve the desired levels of protection. In particular, a common approach should be developed with respect to risks affecting human life or health, a common approach for consideration of risks to animal life or health, and a common approach for risks to plant life or health.

Clearly identified, comprehensive and consistent procedures for assessing risks and for evaluating measures to reduce risk to acceptable levels will assist a Member to be more consistent in the application of its appropriate level of protection.

What a Member is comparing are the measures against the risks posed by potential hazards to human, animal or plant life or health. Risk in the context of the SPS Agreement refers to the likelihood that an adverse event (pest or disease) will occur and the magnitude of the associated potential consequences on plant or animal life or health of the adverse event, or to the potential for adverse effects on human or animal life or health from food-borne risks. (See paragraph 4, Annex A of the SPS Agreement.) Accordingly, categorizing risks as "similar" must include a comparison of both the relevant likelihoods and the corresponding consequence. To facilitate comparison of levels of protection considered appropriate in different situations, Members may wish to categorize the various hazards they are examining into groups of what they consider to be similar.

To the extent possible, risk should be assessed using the principles and procedures developed by the relevant international standard-setting organizations, taking into account the nature of the hazards in question.

B.3. A Member should compare any proposed measure intended to achieve the appropriate level of protection in a particular situation with other sanitary or phytosanitary measures it has taken, or is considering, with regard to human life or health, to animal life or health, and plant life or health in situations which present sufficient common elements so as to render them comparable.

Since the concept of an appropriate level of protection is applied through the selection and implementation of a sanitary or phytosanitary measure (or measures), such a comparison can be useful to ensure the consistency of the proposed measure with any previous measures designed to achieve the same level of protection in situations which present sufficient common elements so as to render them comparable.

B.4. A Member should routinely review existing measures applied to achieve its appropriate level of protection in accordance with the objectives of guideline A.5, taking also into account current decisions and developments.

In undertaking this review, a Member may wish to give priority to the review and revision, as necessary, of the measures applied to achieve the appropriate levels of protection reviewed in accordance with guideline A.5.

B.5. In considering a measure to achieve an appropriate level of protection in a particular situation, a Member should determine whether a relevant international standard, guideline or recommendation exists, and if it does, whether adoption of it would achieve the Member's appropriate level of protection.
Comparisons with the manner in which an international standard, guideline or recommendation would address a particular risk may assist a Member in clarifying its own decision. Significant differences in the measure applied by a Member to address assessed risk compared to the measures that would result from the application of a relevant international standard, guideline or recommendation, may encourage the Member to reconsider whether it is acting in accordance with its obligations under the SPS Agreement.

B.6. In considering a proposed measure to achieve its appropriate level of protection in a particular situation, a Member may find it helpful to examine measures applied by other Members facing similar risks and situations.

Notwithstanding that there is no obligation for a Member to harmonize its measures with those of other Members, significant differences in the measures applied by a Member in order to address a particular risk compared to the measures applied by other Members facing similar risks and situations, and in particular measures which are less restrictive of trade, may prompt the Member to reconsider whether it is acting consistently with its obligations under the SPS Agreement. The Member should in particular compare its proposed measure with those applied by other Members seeking a similar level of protection from risks.

B.7. A Member may consider seeking expert advice on the selection and implementation of sanitary and phytosanitary measures to achieve its appropriate level of protection.

Advice may be sought from recognized, qualified experts, and could include commenting on any potential discriminatory trade effects arising from specific sanitary and phytosanitary measures. A Member may seek assistance from the relevant international standard-setting organizations in identifying appropriate experts.
GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF
ARTICLE 6 OF THE AGREEMENT ON THE APPLICATION OF
SANITARY AND PHYTOSANITARY MEASURES

At its meeting of 2-3 April 2008, the Committee adopted the following guidelines to further the practical implementation of Article 6.

The Committee on Sanitary and Phytosanitary Measures ("the Committee"),

Having regard to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement");

Recalling that in its first review of the operation and implementation of the Agreement, concluded in 1999, the Committee, while noting that adaptation to regional conditions, including the recognition of pest- or disease-free areas or areas of low pest or disease prevalence, was of significant importance for trade in agricultural products, also noted that Members faced difficulties in the implementation of Article 6 of the Agreement;

Recalling that at its June 2003 meeting the Committee initiated substantive discussion of problems linked with the implementation of the provisions for recognition of pest- or disease-free areas and areas of low pest or disease prevalence in Article 6;

Recalling that in its second review of the operation and implementation of the Agreement, concluded at its June 2005 meeting, the Committee agreed that it should develop a proposal for a decision on the effective application of Article 6, taking as the point of departure the various proposals submitted by Members and the discussions in the Committee;

Taking into account the work of the OIE and the IPPC in developing international standards, guidelines and recommendations to further the practical implementation of Article 6;

Recognizing the constructive manner in which the OIE and IPPC have responded to requests from the Committee for technical and administrative guidance;

Decides as follows:

1 At its meeting, the Committee adopted the guidelines on an ad referendum basis. Members who objected to the adoption of the guidelines were asked to make this known by 15 May 2008. No objections were raised by that date.
1. These guidelines are intended to provide assistance to Members in the practical implementation of Article 6 by improving transparency, exchange of information, predictability, confidence and credibility between importing and exporting Members. These guidelines are not intended to duplicate the technical and administrative guidance provided to Members by the IPPC and OIE.

2. These guidelines do not add to nor detract from the existing rights and obligations of Members under the Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the Agreement itself. These guidelines are without prejudice to the right of a Member to determine its appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health.

3. These guidelines will be reviewed periodically and revised as necessary by the Committee in light of experience gained through the implementation of the Agreement and the use of these guidelines themselves. The Committee should undertake a first review of these guidelines within 36 months of their adoption by the Committee and thereafter as the need arises.

I. GENERAL CONSIDERATIONS

4. Importing Members should publish the basis for recognition of pest- or disease-free areas and areas of low pest or disease prevalence and a description of the general process used, including the information generally required to evaluate such requests and a contact point responsible for requests for recognition of pest-or disease-free areas or areas of low pest or disease prevalence.

5. Members should proceed with a recognition process without undue delay.

6. The process should be applied without discrimination between Members.

7. Members should endeavour to maintain transparency in all aspects of the recognition process.

8. Any determination under Article 6 should consider the strength and credibility of the veterinary or phytosanitary infrastructure of the exporting Member in accordance with the importing Member’s appropriate level of sanitary or phytosanitary protection. The veterinary or phytosanitary authorities of the exporting Member should be able to demonstrate their ability to maintain freedom from specified pests or diseases to encourage confidence on the part of the importing Member.

9. The importing Member should take into account any relevant knowledge of and prior experience with the authorities of the exporting Member.

10. Where an exporting Member resubmits a request for recognition of pest- or disease-free areas or areas of low pest or disease prevalence, the importing Member should take into consideration all information previously provided, if verification has been provided by the exporting Member that the information remains valid.

11. If an exporting Member submits multiple requests to the importing Member, the exporting Member should identify its priority among these requests and this will be taken into account by the importing Member.

12. Upon request from the exporting Member, an importing Member should provide information on the stage of the exporting Member’s request within its evaluation process.
II. INITIAL DISCUSSIONS

13. The importing Member should, upon request, enter into discussions with the exporting Member with the aim of clarifying the importing Member's general process and the information generally required to facilitate a request for the recognition of a pest- or disease-free area or area of low pest or disease prevalence.

14. In this regard, the discussions should, inter alia clarify:

   (a) the general process used by the importing Member in the evaluation of requests for the recognition of pest- or disease-free areas and areas of low pest or disease prevalence;

   (b) the general information required to evaluate the request;

   (c) the process for the exchange of information relating to the request, including a contact point, and a language or languages to be used, which should include at least one of the official languages of the WTO; and

   (d) if possible, an anticipated timeframe for completion of the recognition process.

15. The discussions should be undertaken within a reasonable period of time, and normally within 90 days of a request or as otherwise mutually decided.

16. The clarification(s) made in the course of the discussions should, if necessary, be appropriately recorded by the importing Member and transmitted to the exporting Member to avoid any misunderstandings of the general process.

17. When an importing Member has limited resources to undertake work on new requests for recognition, discussions may be postponed for a reasonable period of time. In deciding whether to postpone discussions, the importing Member should take into account as relevant factors, inter alia:

   (a) the number of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence it has received;

   (b) the priority of the exporting Member in situations where it has submitted multiple requests, and

   (c) capacity to undertake work on new requests.

18. When an importing Member has postponed discussions in accordance with paragraph 17 of this decision, it should inform the exporting Member and provide an explanation in writing for the delay.

III. TYPICAL ADMINISTRATIVE STEPS IN THE RECOGNITION PROCESS

19. While Members have the sovereign right to determine their own processes for the evaluation of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence, a process for making a determination under Article 6 typically involves a number of steps such as the following.
Step A:  Exporting Member requests information about procedures and/or recognition

20. The exporting Member requests information about the importing Member's requirements and procedures for the evaluation of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence. An exporting Member may either request information about an importing Member's requirements and procedures prior to formally requesting recognition of an area as a pest- or disease-free area or an area of low pest or disease prevalence, or at the time it requests such recognition. In the latter case, the exporting Member at the same time communicates its sanitary or phytosanitary status to relevant trading partners along with a copy of its request for recognition of an area as a pest- or disease-free area or an area of low pest or disease prevalence.

21. The request for the recognition of a pest- or disease-free area or an area of low pest or disease prevalence may be accompanied by supporting scientific and technical information, including reference to relevant international recognition of the area as a pest- or disease-free area or an area of low pest or disease prevalence. In the interests of transparency, the exporting Member should indicate the organization and an individual within the organization to act as a contact point for the request, and request that the importing Member do the same.

Step B:  Importing Member explains requirements

22. The importing Member explains its requirements and procedures for the evaluation of requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence. The importing Member may, for example, request answers to a specific questionnaire.

Step C:  Exporting Member provides documentation

23. The exporting Member sends the documentation demonstrating compliance with the requirements laid down by the importing Member. Where applicable, the exporting Member provides supporting information showing that the procedures it used to identify that area as pest- or disease-free or of low pest or disease prevalence are based on an international standard, guideline or recommendation. The exporting Member also supplies any further information that could help the importing Member to make a determination.

Step D:  Importing Member evaluates the documentation and, if necessary, requests additional information

24. The importing Member acknowledges the receipt of documentation provided by the exporting Member. The importing Member evaluates the documentation provided by the exporting Member and provides feedback to the exporting Member regarding whether the documentation is in order. In addition, the importing Member may indicate the necessity of additional information or an on-site verification, where justified, based on the results of the ongoing evaluation.

Step E:  Exporting Member responds to feedback

25. The exporting Member provides any clarifications, additions or modifications requested by the importing Member.

Step F:  Importing Member evaluates any additional information and, if required, seeks further clarifications

26. The importing Member evaluates any additional information provided by the exporting Member and provides further feedback to the exporting Member in accordance with step D. If further clarification is needed steps D and E are repeated.
Step G: Importing Member conducts on-site verification

27. If applicable, the importing Member carries out on-site verification in order to verify the information provided in support of the request for recognition of a pest- or disease-free area or an area of low pest or disease prevalence. Such inspections may consider, inter alia, the administrative structure of the regulatory bodies concerned and the programmes they implement with a view to prevention, control and eradication of pests and diseases. The strength and credibility of the veterinary or phytosanitary infrastructure of the exporting region(s) would also be part of this evaluation.

28. The importing Member provides a report on the on-site verification to the exporting Member.

Step H: Exporting Member responds to inspection report

29. If the inspection report so requests, the exporting Member provides further clarifications, additions or modifications.

Step I: Importing Member makes a determination

30. Where its evaluation of the evidence provided by the exporting Member results in a decision by the importing Member not to recognize the pest- or disease-free area or area of low pest or disease prevalence, the importing Member provides to the exporting Member the technical grounds for the determination, so that, if appropriate, the exporting Member may modify and adapt its system with a view to future requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence.

31. Where its evaluation of the evidence provided by the exporting Member results in recognition of the pest- or disease-free area or area of low pest or disease prevalence, the importing Member takes the necessary administrative or legal steps to facilitate trade from the exporting Member. If necessary, the importing Member modifies existing sanitary or phytosanitary regulations or elaborates new ones to support its recognition of the area in question as a pest- or disease-free area or an area of low pest or disease prevalence. In addition, the importing Member may circulate any modified or new regulation for public comment.

IV. EXPEDITED PROCESS

32. The importing Member may determine that an expedited process can be used to evaluate a request for recognition of pest- or disease-free areas or areas of low pest or disease prevalence. An expedited process may involve exclusion of one or more stages or some parts of a stage of the importing Member’s general process for the recognition of pest- or disease-free or areas of low pest or disease prevalence. In determining the possibility of applying an expedited process, the importing Member should take into account factors including inter alia:

(a) when there has been official recognition of an area as a pest- or disease-free area or an area of low pest of disease prevalence by a relevant international organization; or

(b) when there has been an outbreak in an area previously recognized, and suspended, by the importing Member as a pest- or disease-free area or an area of low pest or disease prevalence and which has been restored to its former status as determined by the importing Member in accordance with the relevant international standards, guidelines or recommendations; or
(c) when the infrastructure and operation of the responsible veterinary or phytosanitary service of the exporting Member are familiar to the importing Member as a result of existing trade relations; or

(d) when there has been no previously notified occurrence of the pest or disease and the importing Member agrees that the surveillance procedures and activities implemented by the exporting Member have shown the non-existence thereof, the territory of the Member in question shall be considered free of that pest or disease.

V. MONITORING

33. The Committee will monitor the implementation of Article 6 under the standing agenda item at its regular meetings. In this regard, Members are encouraged to inform the Committee when:

   (a) a request for recognition of pest- or disease-free area or area of low pest or disease prevalence is made; and/or,

   (b) a determination on whether to recognize a pest- or disease-free areas or areas of low pest or disease prevalence is made.

34. Members are also encouraged to provide information on their experiences in the implementation of Article 6 and to provide relevant background information on their decisions to other interested Members upon request.

35. The Secretariat should prepare an annual report to the Committee on implementation of Article 6 based on the information provided by Members under paragraphs 33 and 34.
Committee on Sanitary and Phytosanitary Measures

RECOMMENDED PROCEDURES FOR IMPLEMENTING THE TRANSPARENCY OBLIGATIONS OF THE SPS AGREEMENT (ARTICLE 7)

Revision

The term transparency in the context of the World Trade Organization (WTO) is used to signify one of the fundamental principles of its agreements: the aim is to achieve a greater degree of clarity, predictability and information about trade policies, rules and regulations of Members. In implementing this concept, Members use notifications. Under the SPS Agreement, notifications are used to inform other Members about new or changed regulations that may significantly affect their trading partners. SPS notifications and other related documents can be accessed through the WTO Secretariat's Documents Online application (https://docs.wto.org/) and the ePing SPS&TBT Platform (https://eping.wto.org/). Transparency under the SPS Agreement also includes answering reasonable questions, and publishing regulations.

These procedures have been developed to assist Members fulfil their transparency obligations under Article 7 and Annex B to the SPS Agreement regarding the notification of SPS regulations, answering information requests and publishing regulations.

These guidelines do not add to nor detract from the existing rights and obligations of Members under the SPS Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the SPS Agreement itself.

1 IDENTIFICATION OF THE NATIONAL NOTIFICATION AUTHORITY AND OF THE NATIONAL ENQUIRY POINT(S)

1.1. In accordance with paragraph 10 of Annex B to the SPS Agreement, Members are obliged to designate "a single central government authority" (the National Notification Authority (NNA)) as responsible for the implementation at the national level of the provisions concerning notification procedures. Paragraph 3 of Annex B to the SPS Agreement indicates that each Member "shall ensure that one enquiry point exists" (the National Enquiry Point (NEP)) which is responsible for the provision of answers to all reasonable questions as well as the provision of relevant documents.

1.2. Contact information of Members' NNAs and NEPs is available through the ePing SPS&TBT Platform. When a Member's NNA or NEP has been designated, or changed, the domestic entity designated as "Notification admin" is responsible for updating the contacts in this Platform. Alternatively, Members can request the Secretariat to update the contact information by sending an email to spscommittee@wto.org to provide the following details:

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1 This revision of the Recommended Transparency Procedures does not include any substantive changes to the text. It incorporates updates based on changes in the online tools (ePing SPS&TBT Platform).

2 The SPS Agreement uses the terms 'measures' and 'regulations' somewhat interchangeably when referring to any sanitary or phytosanitary measure such as laws, decrees, or ordinances applied to protect human, animal or plant life or health as defined under paragraph 1 of Annex A to the SPS Agreement.


4 In practice, a number of Members have decided to designate the same entity as the National Enquiry Point and the National Notification Authority while others have found it more functional to establish more than one Enquiry Point to cover the areas of food safety, animal and plant health.

5 Notification admin rights, usually held by the NNA, can be requested by emailing the Secretariat at spscommittee@wto.org. Notification admins are also responsible for granting notification drafting rights or notification submission rights to other users registered on the ePing SPS&TBT Platform.
2 RECOMMENDED NOTIFICATION PROCEDURES

2.1. Members should follow these procedures when notifying regulations as required in paragraphs 5 or 6 of Annex B to the SPS Agreement. The formats for regular notifications (see Annex A-1 of these procedures) should be used for notifications in accordance with paragraph 5 of Annex B to the SPS Agreement, whereas the formats for emergency notifications (see Annex B-1 of these procedures) should be used for notifications as provided for in paragraph 6 of Annex B to the SPS Agreement. These notification formats can be completed and submitted through the ePing SPS&TBT Platform. Users with notification drafting rights or notification submission rights for this Platform can fill in only or fill in and submit the notification formats online.

2.2 Application of Annex B, paragraphs 5 and 6 (preambular part), to the SPS Agreement

2.2. In accordance with Article 7 and paragraph 5 of Annex B to the SPS Agreement, Members are required to notify all regulations the content of which is "not substantially the same as the content of an international standard, guideline or recommendation", if such regulations are expected to have a significant effect on trade of other Members.

2.3. Members are encouraged to notify all regulations that are based on, conform to, or are substantially the same as an international standard, guideline or recommendation, if they are expected to have a significant effect on trade of other Members.\(^6\)

2.4. For the purposes of Annex B, paragraphs 5 and 6, to the SPS Agreement, the concept of "significant effect on trade of other Members" may refer to the effect on trade:
- of one sanitary or phytosanitary regulation only or of various sanitary or phytosanitary regulations in combination;
- in a specific product, group of products or products in general; and
- between two or more Members.

2.5. To assess whether the sanitary or phytosanitary regulation may have a significant effect on trade, the Member concerned should consider relevant available information such as: the value or other importance of imports to the importing and/or exporting Members concerned, whether from other Members individually or collectively; the potential development of such imports; and difficulties for producers in other Members, particularly in developing country Members, to comply with the proposed sanitary or phytosanitary regulations. The concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

2.2 Timing of notifications

2.6. Paragraph 5(a) of Annex B to the SPS Agreement obliges Members to publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with a proposal to introduce a particular regulation. This is useful so that other Members are better able to assess and if necessary, comment on the proposed measures. Members may wish to provide information to the SPS Committee regarding expected modifications to their national regulatory systems.

\(^6\) The Secretariat should provide an annual report on the level of implementation of the transparency provisions of the SPS Agreement and of the recommended transparency procedures contained in this document, including, inter alia, an overview of those notifications which relate to the adoption of international standards, guidelines and recommendations by Members. This annual report is circulated as a revision of document G/SPS/GEN/804.
2.7. Paragraph 5(b) of Annex B to the SPS Agreement obliges Members to submit a notification at an early stage when amendments can still be introduced and comments taken into account. This should be done when a draft of the complete text of a regulation is available.

2.8. Paragraph 5(d) of Annex B to the SPS Agreement obliges Members to allow a reasonable period of time for submission, discussion and consideration of comments. Members should normally allow a period of at least 60 calendar days for comments, except for proposed measures which facilitate trade and those which are substantially the same as an international standard, guideline, or recommendation. Where domestic regulatory mechanisms allow, the 60-day comment period should normally begin with the circulation of the notification by the WTO Secretariat. Any Member which is able to provide a time-limit beyond 60 days is encouraged to do so.

2.9. A notification should be made well before the entry into force of the relevant measure, except when urgent problems of health protection arise or threaten to arise for the Member concerned. In accordance with paragraph 6(a) of Annex B to the SPS Agreement, any regulation brought into force in urgent circumstances is required to be notified immediately and a rationale for the urgent action provided.

2.10. The late notification of a measure already in force does not in and of itself constitute sufficient reason for the use of the emergency format. When urgent problems of health protection are not involved, late notifications should be made using the regular format and consideration should still be given to all comments received, in accordance with paragraph 5(d) of Annex B to the SPS Agreement.

2.3 Requesting documents related to a notification

2.11. Members requesting documents related to a notification should provide all the information necessary to identify the documents and in particular the WTO SPS notification document symbol to which the requests refer.

2.12. When requesting an electronic transmission of documents from another Member, Members should indicate which electronic formats they are able to receive, including compatible versions.

2.4 Providing documents related to a notification

2.4.1 Address of body supplying the documents

2.13. Members should indicate under point 13 of the WTO notification format the full address of the body responsible for supplying the relevant documents if that body is not the National Notification Authority or the National Enquiry Point. Where the relevant documents are also available from a website, the website address or a specific hyperlink to these documents should be provided.

2.4.2 Responding to requests

2.14. Members are obliged to provide upon request to other Members copies of the proposed regulation in accordance with paragraph 5(c) of Annex B to the SPS Agreement. Documents requested should normally be provided within five working days. If this is not possible, the request for documentation or information should be acknowledged within that period and an estimate given of the time required to provide the requested documentation. With a view to facilitating the timely provision of comments on notifications, Members are strongly encouraged to comply with the five-day deadline.

2.15. Documents supplied in response to a request should be identified with the WTO SPS notification document symbol to which the request refers.

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7 Trade facilitating measures could include, *inter alia*, the raising of the level of maximum residue limits of certain pesticides in certain products, the lifting of a ban on imports, or the simplification or elimination of certain certification/approval procedures.
2.16. Members should use e-mail facilities to the extent possible in responding to requests for documentation or information. Members are encouraged to publish their sanitary or phytosanitary measures on the Internet, to facilitate the supply of documents, and to provide the address of relevant websites.

2.17. Members may also submit an electronic version of the text of the notified draft regulation together with the notification format. These texts are stored on a WTO server and are accessible through a hyperlink in the notification format. Information about the provision, storage, and language of attachments to SPS notifications is contained in Annex C of these procedures.

2.4.3 Acknowledging receipt of documents

2.18. The Member requesting documents relating to a notification should acknowledge receipt of the documents provided.

2.4.4 Translation of documents

2.19. When a translation of a relevant document exists or is planned, this fact should be indicated on the WTO notification format next to the title of the document. If only a translated summary exists, the fact that such a summary is available should be similarly indicated.

2.20. If a translation of a document or summary exists in the language of the requesting Member, or, as the case may be, in the WTO working language used by the requesting Member, it should be automatically sent with the original of the document requested.

2.21. Where documents are not available in a WTO working language, developed country Members shall, upon request, supply a translation of the document, or in case of voluminous documents, a translation of a summary of the document, in a WTO working language in accordance with paragraph 8 of Annex B to the SPS Agreement.

2.22. When a Member seeks a copy of a document relating to a notification which does not exist in that Member's WTO working language, the notifying Member should advise the requesting Member of other Members that have requested, as of that date, a copy of the document. The Member seeking a copy of a document relating to a notification may contact other Members in order to determine whether the latter are prepared to share any translation that they have or will be making.

2.23. Any Member possessing an unofficial translation of a document relating to a notification should inform the notifying Member of the existence of the unofficial translation and should submit to the Secretariat a supplement to the original notification submitted by a Member. The supplement should indicate the address for requesting a copy or the website address where the unofficial translation can be found. The format of the supplement can be found in Annex D of these procedures. Neither the Secretariat nor the Member providing the unofficial translation can be held responsible for the accuracy or quality of these translations. Alternatively, Members can share unofficial translations of a document relating to a notification through the international forum of the ePing SPS&TBT Platform.

2.5 Handling of comments on notifications

2.24. Each Member is responsible for updating the contact details of the authority or agency (e.g. its National Notification Authority) which it has designated to be in charge of handling comments received, if no other agency has been designated in the notification, and of any change and/or modification of such authority or agency.  

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8 See G/SPS/GEN/818.  
9 See G/SPS/GEN/487 for further information on this mechanism.  
10 Notification admins are responsible for updating the contacts in the ePing SPS&TBT Platform. Notification admin rights can be requested by emailing the Secretariat at spscommittee@wto.org.
2.25. Members submitting comments on a notified draft regulation should provide them without unnecessary delay to the authority designated to handle the comments, or to the National Notification Authority if no other designation is made.

2.26. A Member receiving comments through the designated body should, without further request:
   i. acknowledge the receipt of such comments;
   ii. explain within a reasonable period of time, and at the earliest possible date before the adoption of the measure, to any Member from which it has received comments, how it will take these comments into account and, where appropriate, provide additional relevant information on the proposed sanitary or phytosanitary regulations concerned;
   iii. provide to any Member from which it has received comments, a copy of the corresponding sanitary or phytosanitary regulations as adopted or information that no corresponding sanitary or phytosanitary regulations will be adopted for the time being.

2.27. A Member receiving comments through the designated body may consider making available to other Members, where possible, non-confidential comments and questions it has received and answers it has provided, or summaries thereof, preferably via electronic means.

2.28. Members should grant requests for extension of the comment period wherever practicable, in particular with regard to notifications relating to products of particular interest to developing country Members, where there have been delays in receiving and translating the relevant documents or where there is a need for further clarification of the measure notified. A 30-day extension should normally be provided and notified to the WTO (see section below on Addenda).

2.29. Members are also encouraged to use the "Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members" (G/SPS/33/Rev.1).\(^{11}\)

2.6 Addenda, revisions and corrigenda

2.30. In addition to their original notifications, Members can also provide supplementary information in three different formats:
   - An addendum is used to provide additional information or changes to an original notification. A Member may wish to indicate on the addendum if the final regulation has been substantially modified from the notified proposal;
   - A corrigendum is used to correct an error in an original notification such as an incorrect address detail; or
   - A revision is used to replace an existing notification.

2.31. Any addendum or corrigendum should be read in conjunction with the original notification.

2.6.1 Addenda

2.32. Members should notify changes in the status of a notified SPS regulation. The issuance of an addendum allows Members to track the status of an SPS regulation via its unique notification number. Addenda to SPS notifications should be made in a number of circumstances, such as:
   - if the comment period has been extended;
   - when a proposed regulation is either adopted, published or comes into force, if the relevant dates have not been provided in the original notification or have been changed. Members are strongly encouraged to follow this recommendation and inform other Members in a timely manner. A Member may wish to indicate on the addendum if the final regulation has been substantially modified from the notified proposal;
   - if the content of a previously notified draft regulation is partially changed, or if the scope of application of the existing notification is modified, either in terms of Members affected or products covered. Such an addendum should provide for a new 60-day comment period unless the notified change is of a trade-facilitating nature or is negligible. Where domestic regulatory mechanisms allow, the 60-day comment period should normally begin with the circulation of the notification by the WTO Secretariat;
   - if a proposed regulation is withdrawn;

\(^{11}\) See Section 2.9 for more information on S&D notifications.
in the case of an emergency notification, an addendum should also be submitted if the period of application of the existing notification is extended.

2.33. An addendum should:

i. briefly recap what was notified, when and what it was about - this is a practical requirement, and reduces the need for Members to have to go back to the original notification to check what it was about;

ii. specify what change has been made and why - briefly state why the information, dates, etc. have been changed; and

iii. restate the comments deadline, even if it has not been changed - as a reminder to Members that if they wish to comment it must be done by this date.

2.34. A format for making an addendum is available in Annex A-2 of these procedures for regular notifications and in Annex B-2 for notifications of emergency measures. These notifications can be completed and submitted through the ePing SPS&TBT Platform.

2.6.2 Revisions

2.35. Revisions replace an existing notification. Revisions should be submitted, for example, if a notified draft regulation was substantially redrafted or if a notification contained a large number of errors. A Member should provide a further period for comments on the revised notification, normally 60 calendar days, unless the notified change is of a trade-facilitating nature or would have a negligible effect on trade. Where domestic regulatory mechanisms allow, the 60-day comment period should normally begin with the circulation of the revised notification by the WTO Secretariat.

2.36. A format for making a revision is available in Annex A-3 of these procedures for regular notifications and Annex B-3 for notifications of emergency measures. These notifications can be completed and submitted through the ePing SPS&TBT Platform.

2.6.3 Corrigenda

2.37. Members should inform the Secretariat of any error(s) contained in their original notification. The Secretariat will issue a corrigendum accordingly.

2.38. A format for making a corrigendum is available in Annex A-4 of these procedures for regular notifications and Annex B-4 for notifications of emergency measures. These notifications can be completed and submitted through the ePing SPS&TBT Platform.

2.7 Regulations that contain both SPS and TBT measures

2.39. When a regulation contains both SPS and TBT measures, it should be notified according to both the SPS and TBT Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement (e.g., a food safety measure) and which parts fall under the TBT Agreement (e.g., quality or compositional requirements).

2.8 Notification of determination of the recognition of equivalence of sanitary or phytosanitary measures

2.40. In accordance with the Decision on Equivalence (G/SPS/19/Rev.2), a Member which has made a determination recognizing the equivalence of sanitary or phytosanitary measures of another Member or Members shall notify other Members through the Secretariat of the measure(s) recognized to be equivalent and of the products affected by this recognition.

2.41. For the purposes of this notification, equivalence is defined to be the state wherein sanitary or phytosanitary measures applied in an exporting Member, though different from the measures applied in an importing Member, achieve, as demonstrated by the exporting Member and recognized

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12 At its meeting of 25-26 June 2002, the Committee adopted a format and recommended procedures for the notification of determination of the recognition of equivalence of sanitary or phytosanitary measures which can be found in G/SPS/7/Rev.2/Add.1. This document was incorporated into G/SPS/7/Rev.3 and subsequent revisions.
by the importing Member, the importing Member's appropriate level of sanitary or phytosanitary protection. A determination of the recognition of equivalence may be with respect to a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis.

2.42. Notification should also be made of significant variations to existing equivalence arrangements, including their suspension or rescission.

2.43. See Annex E of these procedures for further information on the format for the notification of determination of the recognition of equivalence of sanitary or phytosanitary measures. These notifications can be completed and submitted through the ePing SPS&TBT Platform.

2.9 Notification of special and differential treatment (S&D notification)

2.44. In accordance with the Decision on Special and Differential Treatment (G/SPS/33/Rev.1), when an importing Member decides on whether and how special and differential treatment may be provided in response to a specific request, that Member should inform the SPS Committee.

2.45. This may be done in writing and/or under the agenda item on Special and Differential Treatment at any meeting of the SPS Committee. Information provided in writing should be submitted to the WTO Secretariat as an addendum to the original notification concerning the measure. The addendum shall indicate: (1) the name(s) of Member(s) that requested special and differential treatment; (2) if special and differential treatment was provided, the form of such treatment; and (3) if not provided, the addendum shall indicate why special and differential treatment was not provided and whether technical assistance or any other solution was found to address the identified concern.

2.46. The format for making an S&D notification as an addendum to the original notification is available in Annex A-5 of these procedures, and can be completed and submitted through the ePing SPS&TBT Platform.

2.10 Completed notifications

2.47. Notifications should be submitted, preferably online by using the ePing SPS&TBT Platform. Alternatively, they can be submitted by e-mail from the National Notification Authority to the Central Registry of Notifications (CRN) at the WTO. The e-mail address is: crn@wto.org.

2.48. Electronic copies of all notification formats can be downloaded from the WTO website at: https://www.wto.org/english/tratop_e/sps_e/notification_formats_e.htm.

2.49. Members may submit electronic copies, in PDF format, of proposed regulations along with the corresponding notifications to the WTO Secretariat. These texts will be accessible, in the format and language provided, through a hyperlink in the notification format (see paragraph 2.17.).

2.50. In addition, Members are encouraged to provide a website address or a specific hyperlink, if available, for the relevant documents in the appropriate section of the notification format.

2.51. The ePing SPS&TBT Platform is an online platform where WTO Members can directly complete and submit notifications. Submission through this Platform allows for notifications to be processed more accurately and efficiently by the WTO Secretariat, making notifications accessible to the Membership much more rapidly.

2.52. Members should contact the Secretariat (spscommittee@wto.org) to designate a notification admin for the ePing SPS&TBT Platform, who will be responsible for granting notification drafting rights or notification submission rights to other registered users.

3 GUIDELINES FOR NATIONAL ENQUIRY POINTS

3.1. The National Enquiry Point (NEP) system established in paragraph 3 of Annex B to the SPS Agreement is an effective avenue for obtaining information regarding SPS systems and measures from other Members.
3.2. The NEP handles on a routine basis:
- document and information requests;
- general enquiries; and
- delivery and charging of documents.

3.3. NEPs should also provide, upon request, information on participation in any bilateral or multilateral equivalence agreements and arrangements in accordance with paragraph 3(d) of Annex B to the SPS Agreement.

3.4. While the mode of delivery is at the discretion of the Member concerned, it is recommended that delivery of documents should be by the fastest means possible. In the first instance, if the Member has such facilities, the documents should be made accessible through a website or sent by e-mail.

3.5. A Member may only charge the same cost for the documents as it would for its own nationals plus the cost of delivering the documents in accordance with paragraph 4 of Annex B to the SPS Agreement.

3.6. Members should also refer to the guidelines on transparency contained in the handbook Practical Manual for SPS National Notification Authorities and SPS National Enquiry Points, when notifying regulations and operating National Enquiry Points in accordance with Article 7 and Annex B to the SPS Agreement.\(^\text{13}\)

### 4 PUBLICATION OF REGULATIONS

4.1. The publication of regulations is a fundamental component of transparency under the SPS Agreement. This is a general obligation on Members, and does not relate specifically to the work of either the National Notification Authority or National Enquiry Point.

4.2. In accordance with paragraphs 1 and 2 of Annex B to the SPS Agreement, Members are obliged to:

   i. ensure that all SPS regulations which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them. Regulations to be published include laws, decrees or ordinances which are applicable generally;
   ii. except in urgent circumstances, allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

4.3. As agreed in the Doha Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17, paragraph 3.2):

   Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.

4.4. The reasonable interval specified above between the publication and entry into force of new regulations should be provided, including when these are based on, conform to, or are substantially the same as an international standard, guideline, or recommendation.

4.5. Members are encouraged to publish SPS regulations on the Internet where possible. Publication on the Internet has a number of advantages and benefits to Members over more traditional methods. It:

   i. allows for greater transparency;

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\(^{13}\) Available at: [http://www.wto.org/spstransparency](http://www.wto.org/spstransparency).
ii. makes it easier for Members to obtain documents; and
iii. reduces the amount of work involved in processing and fulfilling document requests.
ANNEX A-1: REGULAR NOTIFICATIONS

COMPLETION OF FORMATS - REGULAR NOTIFICATIONS
(ANNEX B, PARAGRAPH 5, TO THE SPS AGREEMENT)

Information contained in the notifications should be as complete as possible and no section should be left blank. Where necessary, "Not known." or "Not stated." should be indicated.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member notifying</td>
<td>Government, including the competent authorities of the European Union, which is making the notification.</td>
</tr>
<tr>
<td>2. Agency responsible</td>
<td>Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.</td>
</tr>
<tr>
<td>3. Products covered</td>
<td>Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO. ICS numbers should be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.</td>
</tr>
<tr>
<td>4. Regions or countries likely to be affected</td>
<td>The geographical regions or countries likely to be affected by the notified regulation should be identified to the extent relevant or practicable. Members are encouraged to be as specific as possible in identifying regions or countries likely to be affected.</td>
</tr>
<tr>
<td>5. Title, language and number of pages of the notified document</td>
<td>Title of the proposed or adopted (in the case of late submissions) sanitary or phytosanitary regulation. Number of pages in the notified document. Languages in which the notified document is available. If a translation of the whole document or its summary exists, indicate this here. If a Member submits the text of the draft regulation or a summary or translation thereof in PDF format along with the notification, the WTO Secretariat will facilitate access to this text through a hyperlink in the notification format.</td>
</tr>
<tr>
<td>6. Description of content</td>
<td>A summary of the proposed or adopted (in the case of late submissions) sanitary or phytosanitary regulation clearly indicating its content and health protection objective. The summary should be as complete and accurate as possible to allow the full understanding of the proposed regulation. To the extent possible, likely effects on trade should be described. Abbreviations should be avoided. Where practicable it should also include an outline of the specific sanitary measures the regulation will apply. The summary should enable trading partners to determine whether the notified measure is likely to have an impact on products they wish to export to the notifying Member. When a regulation contains both SPS and TBT measures, it should be notified according to both the SPS and TBT Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement and which parts fall under the TBT Agreement.</td>
</tr>
<tr>
<td>7. Objective and rationale</td>
<td>State whether objective is: protection of human health from food-borne risks; or protection of human health from plant- or animal-carried diseases; or protection of animal health from pests or diseases; or protection of animal health from contaminated feed; or protection of plant health from pests or diseases; or prevention of other damage from entry, establishment or spread of pests.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>8. Existence of international standard, guideline or recommendation</td>
<td>If a relevant international standard, guideline or recommendation exists, put a cross in the box provided for the appropriate standard-setting organization and give the appropriate reference of the existing standard, guideline or recommendation, e.g., Codex standard number, WOAH (founded as OIE) Code chapter, ISPM number. Indicate whether the proposed regulation conforms to the relevant international standard and if not, describe, whenever possible, how and why the proposed regulation deviates from the international standard, guideline or recommendation. If no international standard, guideline or recommendation exists, put a cross in the box &quot;None&quot;.</td>
</tr>
<tr>
<td>9. Other relevant documents and language(s) in which these are available</td>
<td>Documents referenced here are different from those listed in box 5. Documents which should be referenced include: (a) Publication where notice of the proposed regulation appears, including date and reference numbers; (b) Proposal and basic document to which proposal refers (with specific reference number or other identification), and the language(s) in which the notified documents and any summary of these are available; (c) Publication in which proposal will appear when adopted. If it is necessary to charge for documents supplied, the amount of the charge should be indicated. Provide the website address and hyperlink for these documents where available. If a Member submits texts of referenced documents in PDF format along with the notification to the WTO Secretariat, hyperlinks to these texts will be made available under this item.</td>
</tr>
<tr>
<td>10. Proposed date of adoption and of publication</td>
<td>The date when the sanitary or phytosanitary regulation is expected to be adopted. Also provide, where possible, the proposed date of publication of the final measure if this differs from the date of adoption.</td>
</tr>
<tr>
<td>11. Proposed date of entry into force</td>
<td>The date from which the requirements in the regulation are proposed or decided to enter into force shall normally be at least six months following the above date of adoption and/or publication. Where appropriate, Members should accord longer time-frames for compliance on products of interest to developing country Members. This shall normally be a period of not less than six months.³ Put a cross in the box if the proposed measure contributes to the liberalization of trade. In this case, the implementation of the measure should not be unnecessarily delayed and no comment period need be provided.</td>
</tr>
</tbody>
</table>
| 12. Final date for comments and agency or authority handling comments | The date by which Members may submit comments in accordance with Annex B, paragraph 5(b), to the SPS Agreement. A Member should normally allow a period of at least 60 calendar days for comments. Check the box if this is 60 calendar days following the date of circulation of the notification as a WTO document; the Secretariat will indicate the corresponding date. If not, a specific date should be indicated. Any Member which is able to provide a time limit beyond 60 days is encouraged to do so. The agency or authority which has been designated to handle the comments should be indicated. If this is the National Notification Authority or the National Enquiry Point, put a cross in the box provided. If another agency or authority has been designated, provide its name, address and e-mail address. For proposed measures which facilitate trade or those which are substantially the same as an international standard, guideline or ³ Doha Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17, paragraph 3.1).
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>recommendation, Members may reduce or eliminate the period for receiving comments.</td>
</tr>
<tr>
<td>13. Texts available from</td>
<td>If available from the National Notification Authority or the National Enquiry Point, put a cross in the respective box. If available from another body, give its address and e-mail address. Such indications do not in any way discharge the relevant National Enquiry Point of its responsibilities under the provisions of Annex B, paragraphs 3 and 4, to the SPS Agreement. Provide the website address and specific hyperlink of the document notified, if available. If a Member submits the text of the draft regulation in PDF format along with the notification, a hyperlink to this text will be made available under this item.</td>
</tr>
</tbody>
</table>
**Committee on Sanitary and Phytosanitary Measures**

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### NOTIFICATION

1. **Notifying Member:** SPS1A  
   If applicable, name of local government involved: sps1b

2. **Agency responsible:** sps2a

3. **Products covered** (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): sps3a

4. **Regions or countries likely to be affected, to the extent relevant or practicable:**  
   - All trading partners sps4bbis  
   - Specific regions or countries: sps4a

5. **Title of the notified document:** sps5a. **Language(s):** sps5b. **Number of pages:** sps5c  
   - sps5d

6. **Description of content:** sps6a

7. **Objective and rationale:**  
   - [sps7a] food safety,  
   - [sps7b] animal health,  
   - [sps7c] plant protection,  
   - [sps7d] protect humans from animal/plant pest or disease,  
   - [sps7e] protect territory from other damage from pests. sps7f

8. **Is there a relevant international standard? If so, identify the standard:**  
   - [sps8a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text): sps8atext  
   - [sps8b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number): sps8btext  
   - [sps8c] International Plant Protection Convention (e.g. ISPM number): sps8ctext  
   - [sps8d] None

   **Does this proposed regulation conform to the relevant international standard?**  
   - [sps8ey] Yes [sps8en] No

   If no, describe, whenever possible, how and why it deviates from the international standard: sps8e
<table>
<thead>
<tr>
<th>9.</th>
<th>Other relevant documents and language(s) in which these are available: sps9a sps9b</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.</td>
<td>Proposed date of adoption ((dd/mm/yy)): sps10a</td>
</tr>
<tr>
<td></td>
<td>Proposed date of publication ((dd/mm/yy)): sps10bisa</td>
</tr>
<tr>
<td>11.</td>
<td>Proposed date of entry into force: [sps11c] Six months from date of publication, and/or ((dd/mm/yy)): sps11a</td>
</tr>
<tr>
<td></td>
<td>[sps11e] Trade facilitating measure sps11ebis</td>
</tr>
<tr>
<td>12.</td>
<td>Final date for comments: [sps12e] Sixty days from the date of circulation of the notification and/or ((dd/mm/yy)): sps12a</td>
</tr>
<tr>
<td></td>
<td>Agency or authority designated to handle comments: [sps12b] National Notification Authority, [sps12c] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps12d</td>
</tr>
<tr>
<td>13.</td>
<td>Text(s) available from: [sps13a] National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps13c</td>
</tr>
</tbody>
</table>
ANNEX A-2: REGULAR NOTIFICATIONS - ADDENDA

NOTIFICATION Addendum

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title

Measure

This addendum concerns a:

[ModificationComment] Modification of final date for comments
[Notification] Notification of adoption, publication or entry into force of regulation
[ModificationContent] Modification of content and/or scope of previously notified draft regulation
[Withdraw] Withdrawal of proposed regulation
[ModificationDate] Change in proposed date of adoption, publication or date of entry into force
[ModificationOther] Other: ModificationOtherText

Comment period: (If the addendum extends the scope of the previously notified measure in terms of products and/or potentially affected Members, a new deadline for receipt of comments should be provided, normally of at least 60 calendar days. Under other circumstances, such as extension of originally announced final date for comments, the comment period provided in the addendum may vary.)

[SixtyDayCirculation] Sixty days from the date of circulation of the addendum to the notification and/or (dd/mm/yy): DateComment

Agency or authority designated to handle comments: [CommentNNA] National Notification Authority, [CommentNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

CommentAddress
Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

TextSupplierAddress
## ANNEX A-3: REGULAR NOTIFICATIONS - REVISIONS

### NOTIFICATION

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
</tr>
</thead>
</table>
| 1.     | Notifying Member: SPS1A  
If applicable, name of local government involved: sps1b |
| 2.     | Agency responsible: sps2a |
| 3.     | Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): sps3a |
| 4.     | Regions or countries likely to be affected, to the extent relevant or practicable:  
[sp4b] All trading partners sps4bbis  
[sp4abis] Specific regions or countries: sps4a |
| 5.     | Title of the notified document: sps5a. Language(s): sps5b. Number of pages: sps5c  
sps5d |
| 6.     | Description of content: sps6a |
| 7.     | Objective and rationale: [sps7a] food safety, [sps7b] animal health, [sps7c] plant protection, [sps7d] protect humans from animal/plant pest or disease, [sps7e] protect territory from other damage from pests. sps7f |
| 8.     | Is there a relevant international standard? If so, identify the standard:  
[sp8a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text): sps8atext  
[sp8b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number): sps8btext  
[sp8c] International Plant Protection Convention (e.g. ISPM number): sps8ctext  
[sp8d] None  
Does this proposed regulation conform to the relevant international standard? |
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>9.</td>
<td>Other relevant documents and language(s) in which these are available: sps9a sps9b</td>
</tr>
<tr>
<td>10.</td>
<td>Proposed date of adoption (dd/mm/yy): sps10a Proposed date of publication (dd/mm/yy): sps10bisa</td>
</tr>
<tr>
<td>11.</td>
<td>Proposed date of entry into force: [sps11c] Six months from date of publication, and/or (dd/mm/yy): sps11a [sps11e] Trade facilitating measure sps11ebis</td>
</tr>
<tr>
<td>12.</td>
<td>Final date for comments: [sps12e] Sixty days from the date of circulation of the notification and/or (dd/mm/yy): sps12a Agency or authority designated to handle comments: [sps12b] National Notification Authority, [sps12c] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps12d</td>
</tr>
<tr>
<td>13.</td>
<td>Text(s) available from: [sps13a] National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps13c</td>
</tr>
</tbody>
</table>
### ANNEX A-4: REGULAR NOTIFICATIONS - CORRIGENDA

**NOTIFICATION**

*Corrigendum*

The following communication, received on **DateReception**, is being circulated at the request of the Delegation of **Member**.

<table>
<thead>
<tr>
<th>Title</th>
<th>Measure</th>
</tr>
</thead>
</table>

**Text(s) available from:** [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

TextSupplierAddress
ANNEX A-5: REGULAR NOTIFICATIONS - SPECIAL AND DIFFERENTIAL TREATMENT

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title
Measure

Special and Differential Treatment

(1) Name(s) of Member(s) that requested special and differential treatment: MembersRequested

(2) Special and differential treatment provided [IsTreatmentProvided] Yes [IsTreatmentProvidedNo] No

Describe how such treatment was provided, including what form it took.

TreatmentProvided

(3) If special and differential treatment was not provided, indicate why it was not provided and whether technical assistance or any other solution was found to address the identified concern.

OtherSolution

Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point, or address, fax number and e-mail address (if available) of other body:

TextSupplierAddress
ANNEX B-1: EMERGENCY NOTIFICATIONS

COMPLETION OF FORMATS - EMERGENCY NOTIFICATIONS
(ANNEX B, PARAGRAPH 6, TO THE SPS AGREEMENT)

Information contained in the notification form should be as complete as possible and no section should be left blank. Where necessary, "Not known." or "Not stated." should be indicated.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>1. Member notifying</td>
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<tr>
<td>2. Agency responsible</td>
<td>Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.</td>
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<tr>
<td>3. Products covered</td>
<td>Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO. ICS numbers should be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.</td>
</tr>
<tr>
<td>4. Regions or countries likely to be affected</td>
<td>The geographical regions or countries likely to be affected by the notified regulation should be identified to the extent relevant or practicable. Members are encouraged to be as specific as possible in identifying regions or countries likely to be affected.</td>
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<tr>
<td>5. Title, language and number of pages of the notified document</td>
<td>Title of the proposed or adopted (in the case of late submissions) sanitary or phytosanitary regulation. Number of pages in the notified document. Languages in which the notified document is available. If a translation of the whole document or its summary exists, indicate this here. If a Member submits the text of the draft regulation or a summary or translation thereof in PDF format along with the notification, the WTO Secretariat will facilitate access to this text through a hyperlink in the notification format.</td>
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<td>6. Description of content</td>
<td>A summary of the proposed or adopted sanitary or phytosanitary regulation clearly indicating its content and health protection objective. The summary should be as complete and accurate as possible to allow the full understanding of the proposed regulation. To the extent possible, likely effects on trade should be described. Abbreviations should be avoided. Where practicable it should also include an outline of the specific sanitary measures the regulation will apply. The summary should enable trading partners to determine whether the notified measure is likely to have an impact on products they wish to export to the notifying Member. When a regulation contains both SPS and TBT measures, it should be notified according to both the SPS and TBT Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement and which parts fall under the TBT Agreement.</td>
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<td>7. Objective and rationale</td>
<td>State whether objective is: protection of human health from food-borne risks; or protection of human health from plant- or animal-carried diseases; or protection of animal health from pests or diseases; or protection of animal health from contaminated feed; or protection of plant health from pests or diseases; or prevention of other damage from entry, establishment or spread of pests.</td>
</tr>
<tr>
<td>8. Nature of urgent problem(s) and reason for urgent action</td>
<td>Indication of the underlying reasons for resorting to emergency action, e.g., incursion of pests associated with imports, outbreak of a disease in supplying areas, etc.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>9. Existence of international standard, guideline or recommendation</td>
<td>If a relevant international standard, guideline or recommendation exists, put a cross in the box provided for the appropriate standard-setting organization and give the appropriate reference of the existing standard, guideline or recommendation, e.g., Codex standard number, WOAH (founded as OIE) Code chapter, ISPM number. Indicate whether the proposed regulation conforms to the relevant international standard and if not, describe, whenever possible, how and why the proposed regulation deviates from the international standard, guideline or recommendation. If no international standard, guideline or recommendation exists, put a cross in the box &quot;None&quot;.</td>
</tr>
<tr>
<td>10. Other relevant documents and language(s) in which these are available</td>
<td>Documents referenced here are different from those listed in box 5. Documents which should be referenced include: (a) Measure(s) taken and basic regulation which was modified (with specific reference number or other identification), and the language(s) in which the notified documents and any summary of these are available; (b) Publication in which regulation will appear. If it is necessary to charge for documents supplied, the amount of the charge should be indicated. Provide the website address and hyperlink for these documents where available. If a Member submits texts of referenced documents in PDF format along with the notification to the WTO Secretariat, hyperlinks to these texts will be made available under this item.</td>
</tr>
<tr>
<td>11. Date of entry into force and period of application</td>
<td>The date from which the requirements entered into force, and, if applicable, the period of time during which they will apply. (For example: immediate entry into force [date], duration of two months.) Put a cross in the box if the proposed measure contributes to the liberalization of trade.</td>
</tr>
<tr>
<td>12. Agency or authority handling comments</td>
<td>The agency or authority which has been designated to handle the comments should be indicated. If this is the National Notification Authority or the National Enquiry Point, put a cross in the box provided. If another agency or authority has been designated, provide its name, address and e-mail address.</td>
</tr>
<tr>
<td>13. Texts available from</td>
<td>If available from the National Notification Authority or National Enquiry Point, put a cross in the respective box. If available from another body, give its address, fax number and e-mail address. Such indications do not in any way discharge the relevant National Enquiry Point of its responsibilities under the provisions of Annex B, paragraphs 3 and 4, to the SPS Agreement. Provide the website address and specific hyperlink of the document notified, if available. If a Member submits the text of the draft regulation in PDF format along with the notification, a hyperlink to this text will be made available under this item.</td>
</tr>
</tbody>
</table>
NOTIFICATION OF EMERGENCY MEASURES

1. **Notifying Member:** SPS1A  
   If applicable, name of local government involved: sps1b

2. **Agency responsible:** sps2a

3. **Products covered** (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): sps3a

4. **Regions or countries likely to be affected, to the extent relevant or practicable:**  
   [sps4b] All trading partners sps4bbis  
   [sps4abis] Specific regions or countries: sps4a

5. **Title of the notified document:** sps5a. **Language(s):** sps5b. **Number of pages:** sps5c  
   sps5d

6. **Description of content:** sps6a

7. **Objective and rationale:** [sps7a] food safety, [sps7b] animal health, [sps7c] plant protection, [sps7d] protect humans from animal/plant pest or disease, [sps7e] protect territory from other damage from pests. sps7f

8. **Nature of the urgent problem(s) and reason for urgent action:** sps8a

9. **Is there a relevant international standard? If so, identify the standard:**  
   [sps9a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text): sps9atext  
   [sps9b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number): sps9btext  
   [sps9c] International Plant Protection Convention (e.g. ISPM number): sps9ctext  
   [sps9d] None  
   Does this proposed regulation conform to the relevant international standard?  
   [sps9ey] Yes [sps9en] No  
   If no, describe, whenever possible, how and why it deviates from the international standard: sps9e
<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
</table>
| 10. | **Other relevant documents and language(s) in which these are available:** | sps10a  
sps10b |
| 11. | **Date of entry into force (dd/mm/yy)/period of application (as applicable):** | sps11a  
sps11c  
sps11cbis  
sps11d  
**[sps11e] Trade facilitating measure**  
sps11ebis |
| 12. | **Agency or authority designated to handle comments:** | **[sps12a] National Notification Authority, [sps12b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:** | sps12c |
| 13. | **Text(s) available from:** | **[sps13a] National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:** | sps13c |
ANNEX B-2: EMERGENCY NOTIFICATIONS - ADDENDA

NOTIFICATION OF EMERGENCY MEASURES

Addendum

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

Title
Measure

This addendum concerns a:

[ModificationComment] Modification of final date for comments
[ModificationContent] Modification of content and/or scope of previously notified regulation
[Withdraw] Withdrawal of regulation
[ModificationDate] Change in period of application of measure
[ModificationOther] Other: ModificationOtherText

Agency or authority designated to handle comments: [CommentNNA] National Notification Authority, [CommentNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

CommentAddress

Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

TextSupplierAddress
ANNEX B-3: EMERGENCY NOTIFICATIONS – REVISIONS

NOTIFICATION OF EMERGENCY MEASURES

<table>
<thead>
<tr>
<th>Revision</th>
</tr>
</thead>
</table>
| 1. **Notifying Member:** SPS1A  
  If applicable, name of local government involved: sps1b |
| 2. **Agency responsible:** sps2a |
| 3. **Products covered** (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): sps3a |
| 4. **Regions or countries likely to be affected, to the extent relevant or practicable:**  
  [sps4b] All trading partners sps4bbis  
  [sps4abis] Specific regions or countries: sps4a |
| 5. **Title of the notified document:** sps5a.  
  **Language(s):** sps5b.  
  **Number of pages:** sps5c sps5d |
| 6. **Description of content:** sps6a |
| 7. Objective and rationale:  
  [sps7a] food safety,  
  [sps7b] animal health,  
  [sps7c] plant protection,  
  [sps7d] protect humans from animal/plant pest or disease,  
  [sps7e] protect territory from other damage from pests. sps7f |
| 8. **Nature of the urgent problem(s) and reason for urgent action:** sps8a |
| 9. **Is there a relevant international standard? If so, identify the standard:**  
  [sps9a] Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text): sps9atext  
  [sps9b] World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number): sps9btext  
  [sps9c] International Plant Protection Convention (e.g. ISPM number): sps9ctext |
| 10. Other relevant documents and language(s) in which these are available: | sps10a  
| 11. Date of entry into force (dd/mm/yy)/period of application (as applicable): | sps11a sps11c sps11cbis sps11d  
| Agency or authority designated to handle comments: | [sps12a] National Notification Authority, [sps12b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps12c  
| Text(s) available from: | [sps13a] National Notification Authority, [sps13b] National Enquiry Point. Address, fax number and e-mail address (if available) of other body: sps13c  
| Does this proposed regulation conform to the relevant international standard? | None  
| If no, describe, whenever possible, how and why it deviates from the international standard: | sps9e  
| Yes | No  

## ANNEX B-4: EMERGENCY NOTIFICATIONS – CORRIGENDA

<table>
<thead>
<tr>
<th>Committee on Sanitary and Phytosanitary Measures</th>
<th>Original: Language</th>
</tr>
</thead>
</table>

### NOTIFICATION OF EMERGENCY MEASURES

**Corrigendum**

The following communication, received on DateReception, is being circulated at the request of the Delegation of Member.

<table>
<thead>
<tr>
<th>Title</th>
<th>Measure</th>
</tr>
</thead>
</table>

Text(s) available from: [TextAvailableNNA] National Notification Authority, [TextAvailableNEP] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

TextSupplierAddress
ANNEX C: FACILITY TO ACCESS FULL TEXTS OF NOTIFIED REGULATIONS
ATTACHMENTS SUBMITTED TOGETHER WITH WTO SPS NOTIFICATIONS

Guidelines

1 GENERAL

(a) An “attachment” is a draft regulatory text or a translation or a summary thereof referred to in a WTO SPS notification.
(b) An attachment will not be considered as a WTO document.
(c) The Secretariat cannot be held responsible for the content of attachments.

2 PROVISION OF ATTACHMENTS TO THE WTO

(a) Attachments should be provided electronically to the Central Registry of Notifications (crn@wto.org), in conjunction with the corresponding WTO SPS notification.
(b) Attachments will not be scanned by the WTO Secretariat if submitted in hard copy.
(c) Attachments should be provided in PDF format only. Notifications should continue to be submitted in Word.¹
(d) Individual attachments should not exceed 4MB in size; multiple attachments may be provided.

3 STORAGE OF ATTACHMENTS

(a) Attachments will be stored on a WTO central server.
(b) Attachments stored on the WTO central server will be viewable online by clicking on the hyperlink in the notification format.
(c) Attachments can also be downloaded directly by the user.
(d) Attachments will not be circulated in hard copy form.

4 LANGUAGE OF ATTACHMENTS

(a) Attachments may be provided in their original language.
(b) If available, Members may also provide translations.
(c) Attachments will not be translated by the Secretariat.

¹ The most efficient way to submit notifications is online through the ePing SPS&TBT Platform. Refer to section 2 of the document for further guidance on the notification procedure.
ANNEX D: AVAILABILITY OF UNOFFICIAL TRANSLATIONS

Committee on Sanitary and Phytosanitary Measures

AVAILABILITY OF TRANSLATIONS

NOTE BY THE SECRETARIAT

The Secretariat has been informed that an unofficial translation into language of the document referenced in this notification is available for consultation at:

html address.

Comité des mesures sanitaires et phytosanitaires

TRADUCTIONS DISPONIBLES

NOTE DU SECRETARIAT

Le Secrétariat a été informé qu'une traduction non officielle en langue du document auquel renvoie la présente notification pouvait être consultée à l'adresse suivante:

adresse html.

Comité de Medidas Sanitarias y Fitosanitarias

ACCESO A TRADUCCIONES

NOTA DE LA SECRETARÍA

Se ha comunicado a la Secretaría que en la dirección:

dirección html

se puede consultar una traducción no oficial al idioma del documento a que se hace referencia en la presente notificación.
ANNEX E: NOTIFICATION OF RECOGNITION OF EQUIVALENCE

RECOMMENDED PROCEDURES FOR THE COMPLETION OF THE NOTIFICATION FORMAT

In accordance with the Decision on Equivalence (G/SPS/19/Rev.2), a Member which has made a determination recognizing the equivalence of sanitary or phytosanitary measures of another Member or Members shall notify other Members through the Secretariat of the measure(s) recognized to be equivalent and of the products affected by this recognition.

For the purposes of this notification, equivalence is defined to be the state wherein sanitary or phytosanitary measures applied in an exporting Member, though different from the measures applied in an importing Member, achieve, as demonstrated by the exporting Member and recognized by the importing Member, the importing Member’s appropriate level of sanitary or phytosanitary protection. A determination of the recognition of equivalence may be with respect to a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis.

Notification should also be made of significant variations to existing equivalence arrangements, including their suspension or rescission.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member notifying</td>
<td>Government, including the competent authorities of the European Union, which is making the notification.</td>
</tr>
<tr>
<td>2. Title of the text stating determination of the recognition of equivalence</td>
<td>Title of any formal or informal agreement, Memorandum of Understanding or other document establishing the determination of recognition of equivalence.</td>
</tr>
<tr>
<td>3. Parties involved</td>
<td>Name of the exporting Member or Members whose measure has been determined to be equivalent.</td>
</tr>
<tr>
<td>4. Date of entry into force of the determination of the recognition of equivalence and any associated procedures or regulations</td>
<td>Date from which procedures, regulations or other measures based on the determination of recognition of equivalence took effect.</td>
</tr>
<tr>
<td>5. Products covered (HS or ICS where applicable, otherwise national tariff heading)</td>
<td>Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO of the product(s) which are imported on the basis of the determination of the recognition of equivalence.</td>
</tr>
<tr>
<td>6. Brief description of the measure(s) recognized to be equivalent</td>
<td>Clearly indicate the nature of the recognition of equivalence, including which measure(s) of the exporting Member have been determined to be equivalent and which elements of the importing Member’s usual requirements are met by these equivalent measures.</td>
</tr>
<tr>
<td>7. Further information available from</td>
<td>The agency or authority from which an interested Member may request further information regarding the specific determination of equivalence being notified. If this is the National Enquiry Point, check the box provided. If available from another body, give its address, and e-mail address. Provide the website address of the document, if available.</td>
</tr>
</tbody>
</table>
NOTIFICATION OF DETERMINATION OF THE RECOGNITION OF EQUIVALENCE OF SANITARY OR PHYTOSANITARY MEASURES

The following notification of determination of the recognition of equivalence has been received.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.</strong></td>
<td><strong>Member notifying:</strong> 1A</td>
</tr>
<tr>
<td><strong>2.</strong></td>
<td><strong>Title of the text stating the determination of the recognition of equivalence:</strong> 2a</td>
</tr>
<tr>
<td><strong>3.</strong></td>
<td><strong>Parties involved:</strong> 3a</td>
</tr>
<tr>
<td><strong>4.</strong></td>
<td><strong>Date of entry into force of the determination of the recognition of equivalence and any associated procedures or regulations:</strong> 4a 4b</td>
</tr>
<tr>
<td><strong>5.</strong></td>
<td><strong>Products covered (HS or CCCN where applicable, otherwise national tariff heading):</strong> 5a</td>
</tr>
<tr>
<td><strong>6.</strong></td>
<td><strong>Description of measures recognized to be equivalent:</strong> 6a</td>
</tr>
<tr>
<td><strong>7.</strong></td>
<td><strong>Further information available from:</strong></td>
</tr>
<tr>
<td></td>
<td>[7b] National Enquiry Point</td>
</tr>
<tr>
<td></td>
<td>[7c] Other (specify) 7a</td>
</tr>
</tbody>
</table>
COLLECTION OF AVAILABLE TOOLS AND RESOURCES
IN RELATION TO SPS APPROVAL PROCEDURES

ADOPTED BY THE COMMITTEE ON 24 MARCH 2023

The Report of the Fifth Review of the Operation and Implementation of the SPS Agreement included several recommendations on various topics, including a recommendation that the SPS Committee create a working group open to the participation of all Members and Observers to continue to examine the topic of approval procedures. The Working Group on Approval Procedures was set up in November 2020 and concluded its work in March 2023.

Participants in the Working Group on Approval Procedures identified existing available tools and resources as they apply to approval procedures in the form of a collection. The Collection of Available Tools and Resources in Relation to Approval Procedures was then circulated and adopted at the March 2023 formal meeting of the SPS Committee.

Tools and resources are indicated in the table below, organized by key themes. The identified tools and resources may be applicable to more than one theme; however each tool or best practice has only been included once for simplicity.

This is not an exhaustive list of tools and resources. It does not represent a legal interpretation of the rights and obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and does not in any way exemplify a legal definition.

The SPS Committee will keep this Collection up to date with the assistance of the Secretariat.

---

1 G/SPS/64, para. 3.12.
2 G/SPS/GEN/2098.
3 G/SPS/W/337.
4 The order in which these tools and resources have been included in the table below does not reflect any hierarchy among them or any particular level of importance.
<table>
<thead>
<tr>
<th>Tool or resource</th>
<th>What is it?</th>
<th>Where to find it?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. General</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SPS Committee Events, Workshops and Training</td>
<td>Events and resources listed on this page range from special information sessions of the SPS Committee to workshops, training sessions and training material, some organized in conjunction with other organizations, including the Standards and Trade Development Facility (STDF).</td>
<td><a href="https://www.wto.org/english/tratop_e/sps_e/events_e.htm">https://www.wto.org/english/tratop_e/sps_e/events_e.htm</a></td>
</tr>
<tr>
<td><strong>2. Timing and Undue Delays</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Global Low-Level Presence Initiative (GLI) Communique on Approaches to Reduce Asynchronous Authorizations in Food and Feed Derived From Recombinant-DNA (rDNA) Plant</td>
<td>Communique with the objective of offering a broad range of potential approaches for governments, technology developers, and other stakeholders to consider to minimize occurrences of asynchronous authorizations of food and feed derived from rDNA plants.</td>
<td><a href="https://llp-gli.org/llp-communique.html">https://llp-gli.org/llp-communique.html</a></td>
</tr>
<tr>
<td>GLI Principles, Criteria and Practical Approaches for Addressing Low-Level Presence (LLP) of Food in International Food and Feed Trade of Plant Material</td>
<td>Document suggesting tools for addressing trade disruptions due to LLP, setting out guiding principles for the development of practical approaches to addressing LLP by governments and for bolstering continued industry stewardship efforts, supporting and encouraging essential elements of a given approach or approaches for addressing LLP, and supporting consideration of the possible approaches by governments and industry as practical means to address LLP.</td>
<td><a href="https://llp-gli.org/llp-principles.html">https://llp-gli.org/llp-principles.html</a></td>
</tr>
<tr>
<td>GLI Information and Resources</td>
<td>Collection of resources offering approaches and principles for members, observers, international organizations, and individuals to consider to minimize asynchronous approvals and manage LLP.</td>
<td><a href="https://llp-gli.org/llp-resources.html">https://llp-gli.org/llp-resources.html</a></td>
</tr>
</tbody>
</table>
### 3. Transparency

<table>
<thead>
<tr>
<th>Tool or resource</th>
<th>What is it?</th>
<th>Where to find it?</th>
</tr>
</thead>
<tbody>
<tr>
<td>ePing SPS&amp;TBT Platform</td>
<td>The new ePing SPS&amp;TBT Platform integrates all SPS and TBT transparency tools into a single platform. It includes various functions related to notifications, STCs, and information exchange. Through the ePing SPS&amp;TBT Platform, users can browse notifications on new and updated product regulations and sign up to receive daily or weekly email alerts and to follow notifications on products and/or markets of interest. Users can also find information on trade concerns discussed in the WTO SPS and TBT committees. Information on enquiry points and notification authorities can also be located in the Platform. The ePing SPS&amp;TBT Platform enables Members to submit notifications online. This improved functionality allows Members to fill in all types of notification templates, improve national coordination with regulatory agencies, provide more accurate and complete data, prepare notification models to increase efficiency, and keep track of all notifications submitted.</td>
<td><a href="https://eping.wto.org/en/">https://eping.wto.org/en/</a></td>
</tr>
<tr>
<td>Thematic SPS Workshop on Transparency, 20 June 2022</td>
<td>Presentations from the Workshop, to serve as a reference for Members looking to strengthen their internal capacities to align with the SPS Agreement's transparency provisions.</td>
<td><a href="https://www.wto.org/english/tratop_e/sps_e/workshop_transparency_20jun22_e.htm">https://www.wto.org/english/tratop_e/sps_e/workshop_transparency_20jun22_e.htm</a></td>
</tr>
<tr>
<td>Thematic SPS Workshop on Transparency and Coordination, 15-16 July 2019</td>
<td>Presentations from the Workshop, to serve as a reference for Members looking to strengthen their internal capacities to align with the SPS Agreement's transparency provisions.</td>
<td><a href="https://www.wto.org/english/tratop_e/sps_e/workshop15072019_e.htm">https://www.wto.org/english/tratop_e/sps_e/workshop15072019_e.htm</a></td>
</tr>
<tr>
<td>SPS Workshop on Transparency, 30-31 October 2017</td>
<td>Presentations from the Workshop, to serve as a reference regarding implementation of the SPS Agreement's transparency provisions.</td>
<td><a href="https://www.wto.org/english/tratop_e/sps_e/wkshoptranparency_oct17_e.htm">https://www.wto.org/english/tratop_e/sps_e/wkshoptranparency_oct17_e.htm</a></td>
</tr>
<tr>
<td>Tool or resource</td>
<td>What is it?</td>
<td>Where to find it</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>4. Communication or Information Exchange</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OECD Guidance for Country Data Review Reports on Plant Protection Products and their Active Substances (Monograph Guidance)</td>
<td>Guidance as to the format and presentation of the documentation to be prepared by the regulatory authorities in the context of applications for the approval of particular active substances made to them, for the registration of plant protection products, for the establishment of maximum residue limits (MRLs), or for the establishment of import tolerances.</td>
<td><a href="https://www.oecd.org/env/ehs/pesticides-biocides/38588738.pdf">https://www.oecd.org/env/ehs/pesticides-biocides/38588738.pdf</a></td>
</tr>
<tr>
<td>GLI Memorandum on Improving Access to Data and Information for Food and Feed Safety Assessment in Situations of Low-Level Presence (LLP) of Recombinant-DNA (rDNA) Plant Material</td>
<td>Memorandum expressing the common understanding among GLI member countries that governments should be encouraged to share data and information about completed food and feed safety assessments of rDNA plant material with importing country governments in instances of LLP in imported food and feed.</td>
<td><a href="https://llp-gli.org/llp-memorandum.html">https://llp-gli.org/llp-memorandum.html</a></td>
</tr>
<tr>
<td><strong>5. Justification</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International Seed Testing Association (ISTA) Rules for Seed Testing</td>
<td>Standard procedures for sampling and testing of seeds, including genetically modified (GM) seeds for detection of approved/unapproved events present in imported consignments and also GM seeds for export to countries which require GM seed testing. It ensures seed quality and accuracy of testing by uniformity in seed sampling and testing.</td>
<td><a href="https://www.seedtest.org/en/publications/international-rules-seed-testing.html">https://www.seedtest.org/en/publications/international-rules-seed-testing.html</a></td>
</tr>
<tr>
<td>FAO GM Foods Platform and Resources</td>
<td>Online platform to share information on safety assessment of foods derived from rDNA plants authorized in accordance with Codex Guidelines. This Platform also facilitates the decision-making process with regard to possible LLP situations, through the effective utilization of food safety assessment in situations of LLP of rDNA plant materials in food.</td>
<td><a href="http://www.fao.org/food/food-safety-quality/gm-foods-platform/en/">http://www.fao.org/food/food-safety-quality/gm-foods-platform/en/</a></td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Tool or resource</th>
<th>What is it?</th>
<th>Where to find it?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repository of science-based consensus documents which are mutually acceptable among member countries and contain technical information for use during the regulatory assessment of products of biotechnology.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Harmonization with International Standards</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Codex Principles and Guidelines for the Exchange of Information between Importing and Exporting Countries to Support the Trade in Food</td>
<td>Codex guidance related to certification.</td>
<td>CAC/GL 89-2016</td>
</tr>
<tr>
<td>Codex Guidelines for Food Import Control Systems</td>
<td>Codex guidance related to certification.</td>
<td>CAC/GL 47-2003</td>
</tr>
<tr>
<td>Codex Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations</td>
<td>Codex guidance related to certification.</td>
<td>CAC/GL 19-1995</td>
</tr>
<tr>
<td>Codex Principles and Guidelines for National Food Control Systems</td>
<td>Codex guidance related to certification.</td>
<td>CAC/GL 82-2013</td>
</tr>
<tr>
<td>Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Foods</td>
<td>Codex guidance related to certification.</td>
<td>CAC/GL 25-1997</td>
</tr>
<tr>
<td>Codex Principles and Guidelines for Monitoring the Performance of National Food Control Systems</td>
<td>Codex guidance related to certification.</td>
<td>CXG 91-2017</td>
</tr>
<tr>
<td>Tool or resource</td>
<td>What is it?</td>
<td>Where to find it?</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>-----------------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Codex Principles for Traceability/Product Tracing as a Tool Within a Food Inspection and Certification System</td>
<td>Codex guidance related to certification.</td>
<td>CAC/GL 60-2006</td>
</tr>
<tr>
<td>Codex Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants</td>
<td>Codex guidance related to biotechnology.</td>
<td>CAC/GL 45-2003</td>
</tr>
<tr>
<td>Codex Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Animals</td>
<td>Codex guidance related to biotechnology.</td>
<td>CAC/GL 68-2008</td>
</tr>
<tr>
<td>Codex Guidelines on Performance Criteria and Validation of Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins in Foods</td>
<td>Codex guidance related to biotechnology.</td>
<td>CAC/GL 74-2010</td>
</tr>
<tr>
<td>Codex Food Control Laboratory Management: Recommendations</td>
<td>Codex guidance related to methods of analysis.</td>
<td>CAC/GL 28-1995</td>
</tr>
<tr>
<td>Tool or resource</td>
<td>What is it?</td>
<td>Where to find it?</td>
</tr>
<tr>
<td>-----------------</td>
<td>-------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Codex Guidelines for Settling Disputes over Analytical (Test) Results</td>
<td>Codex guidance related to methods of analysis.</td>
<td>CAC/GL 70-2009</td>
</tr>
<tr>
<td>Codex Principles for the Use of Sampling and Testing in International Food Trade</td>
<td>Codex guidance related to methods of analysis.</td>
<td>CAC/GL 83-2013</td>
</tr>
<tr>
<td>Codex Guidelines on Performance Criteria for Methods of Analysis for the Determination of Pesticide Residues in Food and Feed</td>
<td>Codex guidance related to pesticide residues.</td>
<td>CXG 90-2017</td>
</tr>
<tr>
<td>WOAH Aquatic Animal Health Code - Chapter 2.2 - Import Risk Analysis</td>
<td>WOAH standards.</td>
<td><a href="https://www.woah.org/fileadmin/Home/eng/Health_standards/aahc/2009/en_chapitre_1.2.2.htm#chapitre_1.2.2">https://www.woah.org/fileadmin/Home/eng/Health_standards/aahc/2009/en_chapitre_1.2.2.htm#chapitre_1.2.2</a></td>
</tr>
<tr>
<td>World Animal Health Information System (WAHIS)</td>
<td>WOAH database, which provides access to details of countries' current animal health situation, as well as their notification record over the years and other relevant animal health information.</td>
<td><a href="https://wahis.woah.org/#/home">https://wahis.woah.org/#/home</a></td>
</tr>
<tr>
<td>WOAH Self-declared Disease Status</td>
<td>WOAH system to allow countries to communicate self-declaration of disease freedom for diseases (excluding the six diseases subject to official recognition by WOAH). This is an open mechanism, under the responsibility of each WOAH Member, which decides to share the information supporting a claim of freedom from a given WOAH-listed disease, based on the relevant WOAH standards.</td>
<td><a href="https://www.woah.org/en/what-we-offer/self-declared-disease-status/">https://www.woah.org/en/what-we-offer/self-declared-disease-status/</a></td>
</tr>
<tr>
<td>WOAH Performance of Veterinary Services (PVS) Pathway</td>
<td>Reports and relevant information relating to the PVS Pathway, WOAH's capacity-building programme for the sustainable improvement of national Veterinary Services. The PVS Pathway provides an external perspective that analyses the structure, functioning and performance of a country's Veterinary Services, highlights strengths, and identifies gaps and opportunities for improvements.</td>
<td><a href="https://www.woah.org/en/what-we-offer/improving-veterinary-services/pvs-pathway/">https://www.woah.org/en/what-we-offer/improving-veterinary-services/pvs-pathway/</a></td>
</tr>
<tr>
<td>Tool or resource</td>
<td>What is it?</td>
<td>Where to find it</td>
</tr>
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<td>-----------------------------------------------------</td>
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<tr>
<td>Available reports</td>
<td>PVS Evaluation reports assessing the extent to which a country's Veterinary Services comply with WOAH standards; Veterinary Legislation Identification Mission reports analysing the current state of veterinary legislations; and PVS Gap Analysis reports identifying priority goals, as well as strategies, activities and a rough estimate of the investments required to achieve these objectives.</td>
<td><a href="https://www.woah.org/en/what-we-offer/improving-veterinary-services/pvs-pathway/pvs-pathway-state-of-play-and-mission-reports/">https://www.woah.org/en/what-we-offer/improving-veterinary-services/pvs-pathway/pvs-pathway-state-of-play-and-mission-reports/</a></td>
</tr>
<tr>
<td>WOAH Expertise Network</td>
<td>Network of WOAH Collaborating Centres and WOAH Reference Laboratories, which contribute to the work of WOAH to ensure that standards, guidelines, and recommendations are scientifically sound and up to date.</td>
<td><a href="https://www.woah.org/en/what-we-offer/expertise-network/">https://www.woah.org/en/what-we-offer/expertise-network/</a></td>
</tr>
<tr>
<td>WOAH Register of Diagnostic Kits</td>
<td>WOAH register of diagnostic kits certified as validated as fit for purpose, which means that the kit has to be validated to such a level to show that the kit's results can be interpreted to have a defined meaning in terms of diagnosis or another biological property being examined.</td>
<td><a href="https://www.woah.org/en/what-we-offer/veterinary-products/diagnostic-kits/the-register-of-diagnostic-kits/">https://www.woah.org/en/what-we-offer/veterinary-products/diagnostic-kits/the-register-of-diagnostic-kits/</a></td>
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</table>

### 7. Regulatory Cooperation

**Enabling Access to Tools and Technologies: Towards Safer and More Sustainable Agriculture Through Regulatory Collaboration, Submission from Brazil, Kenya, Paraguay, and the United States of America**

Compilation of concepts that can be employed, on a voluntary basis, to improve and streamline regulatory processes, while safeguarding human, plant, and animal health. This compilation serves as a resource, in particular for authorities with capacity constraints to help identify regulatory efficiencies that can lead to greater and faster market access. This compilation refers to tools and technologies, although the general concepts are applicable to a variety of market access requests. These concepts include common application requirements, joint risk assessments, data portability, adaptation to regional conditions, unilateral recognition, mutual recognition, familiarity, history of safe use, equivalence, and harmonization.

**APEC, A Trade Facilitative Approach to Pesticide MRL Compliance**

Brochure providing an overview of the benefits to trade associated with harmonized MRLs.

**Crop Life’s Regulatory Harmonization Webpage**

Example of regulated community’s contribution to promoting and advancing regulatory harmonization.

**Update of the APEC Baseline Study: Regulations of Products Derived from Innovative Agricultural Technologies and Identification of Ways to Promote Greater Efficiencies and Alignment**

Report outlining APEC economies’ decision frameworks for products of biotechnology and providing foundational information to be able to identify economies with regulatory regimes compatible with regulatory cooperation and collaboration through, for example, the sharing of food safety assessments and/or the mutual recognition of safety assessments.
Committee on Sanitary and Phytosanitary Measures

RECOMMENDATIONS IN RELATION TO SPS APPROVAL PROCEDURES
ADOPTED BY THE COMMITTEE ON 24 MARCH 2023

Following the recommendation from the Fifth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), a Working Group on Approval Procedures was established with the goal of exploring:

- Key challenges of approval procedures that impact international trade and that the SPS Committee should seek to address;
- Principles of approval procedures that facilitate international trade while meeting the importing Member's appropriate level of protection (ALOP) and the SPS Committee's role in highlighting these principles;
- Tools available and best practices to enhance the implementation of the obligations of the SPS Agreement as they apply to approval procedures; and
- Other topics raised by participants over the course of the Working Group on Approval Procedures.

The Working Group on Approval Procedures developed a note on Outcomes and Recommendations.\(^1\)

The recommendations developed by the Working Group on Approval Procedures were then circulated as a standalone document\(^2\), and adopted at the March 2023 formal meeting of the SPS Committee. The recommendations below do not represent a legal interpretation of the rights and obligations under the SPS Agreement and do not in any way exemplify a legal definition.

1 RECOMMENDATIONS

1.1. The Collection of Available Tools and Resources in document G/SPS/67 will be kept up to date by the SPS Committee with the assistance of the Secretariat.

1.2. Members should consider the use of SPS Committee mechanisms to facilitate discussions on the challenges and principles of approval procedures, and to further explore the need for additional guidance or tools to be developed. These mechanisms include, but are not limited to:

   a. Agenda item 4(d) of the formal SPS Committee meeting on Operation and implementation of the SPS Agreement – Control inspection and approval procedures;

   b. The upcoming sixth review process; and

   c. The thematic groups established under the MC12 SPS Declaration work programme.

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\(^1\) G/SPS/GEN/2099.
\(^2\) G/SPS/W/338.
1.3. Members are encouraged to further the implementation of Annex C of the SPS Agreement with respect to approval procedures.

1.4. Members are reminded of the importance of key principles of the SPS Agreement, including those reflected in Annex C of the Agreement. Members are reminded of the importance of the following principles of approval procedures to facilitate international trade while meeting the importing Member’s ALOP:

a. Science-based, risk-based SPS measures in accordance with Articles 2.2, 3, and 5;

b. Timely approval and no undue delay in approval procedures in accordance with Annex C.1(a), and information requirements limited to what is necessary in accordance with Annex C.1(c);

c. Transparency, communication, and publication with respect to approval procedures in accordance with Article 7 and Annexes B and C:

i. Members are encouraged to make relevant information on approval procedures available on official websites, ideally in multiple languages, and to use e-tools to provide clear and timely information on approval procedures;

ii. Members are encouraged to have up-to-date contact details of their SPS National Enquiry Points and National Notification Authorities available on the ePing SPS&TBT Platform;

iii. Members are encouraged to notify all new or changed approval procedures that are expected to have a significant effect on trade of other Members;

iv. Members are encouraged to provide relevant information proactively at the start of the approval process, including with respect to the requirements for the approval procedure, anticipated processing period, steps of the approval procedure, and relevant deadlines and timeframes, as well as to provide regular status updates;

v. Members are encouraged to maintain an open and ongoing communication with applicants throughout approval processes; and

vi. Members are encouraged, to the extent possible, to use international tools for the electronic exchange of certificates;

d. Non-discrimination and consistent treatment of Members with the same SPS status in accordance with Article 2.3, Article 5.5, and Annex C.1(a);

e. Harmonization with international standards in accordance with Article 3 and Annex C; and

f. Equitable fees in accordance with Annex C.1(f).

1.5. Members are encouraged to engage in regulatory cooperation to maximize capacity and resources, to facilitate approval procedures, and to address asynchronous approvals.

1.6. Members are encouraged to adopt approval procedures that make use of modern technologies and practices, such as remote audits, and to work with relevant international organizations in this area.
Committee on Sanitary and Phytosanitary Measures

PROCEDURE TO ENHANCE TRANSPARENCY OF SPECIAL AND DIFFERENTIAL TREATMENT IN FAVOUR OF DEVELOPING COUNTRY MEMBERS

Decision by the Committee

Revision

The Committee on Sanitary and Phytosanitary Measures ("the Committee"),

Recalling that paragraph 1 of Article 10 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement") states that in the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members;

 Seeking to develop effective, concrete and operational means to facilitate the implementation of this provision;

 Recognizing the difficulties that Members, and in particular developing country and least-developed country Members, may face in adapting their products and methods of production to new or changed requirements of importing Members;

 Recognizing also the need to make transparency procedures more effective and operational for developing country Members, and in particular least-developed country Members;  

 Noting that the provision of technical assistance, as referred to in Article 9 of the Agreement, may assist Members adapt their products and methods of production to new or changed requirements;

 Recalling that paragraph 2 of Article 9 of the Agreement indicates that where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved;

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1 At its meeting of 28-29 October 2009, the Committee adopted this revision on an ad referendum basis. Members who objected to the adoption of the revision were asked to make this known by 16 December 2009. No objections were raised by that date.

2 Developing country Members may request assistance to ensure the effective functioning of a National Notification Authority and Enquiry Point, including the capacity to effectively receive and review the notifications of other Members, in order to identify and react to those which may have a potential significant effect on their international trade. The "mentoring" procedure for assisting Members in the implementation of the transparency provisions of the SPS Agreement may also be useful in this regard (see G/SPS/W/217).
Recalling that the Committee's regular agenda items on the "Implementation of Special and Differential Treatment" and on the "Operation of Transparency Provisions" provide opportunities, on an on-going basis, for raising concerns or assessing progress with respect to the implementation of the procedure to enhance transparency of special and differential treatment in favour of developing country Members;

Encourages Members to make full use of this procedure and thereby to also contribute to enhanced transparency with respect to special and differential treatment and/or technical assistance being offered or provided upon request; and

Decides that the following procedure should be used to enhance transparency of special and differential treatment in favour of developing country Members:

1. This procedure to enhance transparency of special and differential treatment in favour of developing country Members should normally be used during the comment period following the circulation of an SPS notification in accordance with the relevant provisions and procedures contained in the Agreement or subsequently adopted by Members, except as provided in Step 5 below.3

Steps for proposed measures

2. If an exporting developing country Member identifies significant difficulties with a proposed measure that has been notified, that Member may, in the comments it submits in writing to the notifying Member, request an opportunity to discuss the issue of concern with the notifying Member. The exporting developing country Member should identify to the notifying Member the specific problems that the proposed measure may create for its exports, or the specific reasons why it is unable to comply with the notified measure by the implementation date.

3. In response to such a request, where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of the new measure, a longer time-frame for compliance should be accorded to developing country Members, which shall be understood to mean normally a period of not less than six months.4

4. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, the Member notifying the measure shall, upon such request, enter into consultations with the exporting Member with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.5 Such consultations shall preferably take place prior to the entry into force of the new measure. A possible resolution of the concern identified could include one of the following, or a combination thereof: (1) a change in the proposed measure; (2) the provision of technical assistance to the exporting developing country Member; or (3) the provision of special and differential treatment.

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3 In particular, Article 7 and Annex B of the Agreement, and the Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7) contained in G/SPS/7/Rev.3. In addition, the Procedural Step-by-Step Manual for SPS National Notification Authorities and SPS National Enquiry Points can assist Members in meeting the obligations and following the recommended procedures (available electronically at: http://www.wto.org/english/res_e/booksp_e/sp_s_procedure_manual_e.pdf). These texts also provide information regarding the availability of SPS notifications, including through the SPS Information Management System (http://spsims.wto.org).

4 Ibid.

5 WT/MIN(01)/17, paragraph 3.1. This step may also be used where the phased introduction of a measure will not resolve the specific problems identified by the exporting developing country Member.
Steps following entry into force of a new measure

5. If, following the adoption or entry into force of a new or modified measure (including an emergency measure), an exporting developing country Member identifies significant difficulties which its exports face in complying with the measure, it may request an opportunity to discuss its difficulties with the importing Member to attempt to resolve the issue of concern, especially where no time, or an insufficient period of time, had been provided for the submission of comments prior to the implementation of the measure. The importing Member shall, upon such request from an exporting developing country Member, enter into consultations with the exporting Member to discuss possible means to address the identified problem while continuing to achieve the importing Member's appropriate level of protection. A possible resolution of the concern identified could include one of the following, or a combination thereof: (1) a change in the measure; (2) the provision of technical assistance to the exporting developing country Member; or (3) the provision of special and differential treatment.

Transparency

6. When an importing Member decides on whether and how special and differential treatment may be provided in response to a specific request, that Member should inform the SPS Committee. This may be done in writing and/or under the agenda item on Special and Differential Treatment at any meeting of the SPS Committee. Information provided in writing should be submitted to the WTO Secretariat as an Addendum to the original notification concerning the measure. The Addendum shall indicate: (1) the name(s) of Member(s) that requested special and differential treatment; (2) if special and differential treatment was provided, the form of such treatment; and (3) if not provided, the Addendum shall indicate why special and differential treatment was not provided and whether technical assistance or any other solution was found to address the identified concern. A format for the Addendum is contained in the Annex.

Administration

7. The Committee shall review the implementation of this procedure, in light of the experiences of Members and relevant Addenda, as an integral part of its periodic Review of the Operation and Implementation of the Agreement under Article 12.7. The next such Review is to be completed in 2013, and every four years subsequently.

8. The Committee may decide to modify, suspend or terminate this procedure at any time, in light of the experiences of Members in its implementation.

9. This procedure is without prejudice to the rights and obligations of Members under Article 10.1 of the SPS Agreement. The Committee recognizes that this procedure does not fully resolve the issue of special and differential treatment, but that it is one step in addressing the problem of implementation of the special and differential treatment provisions of the Agreement. The Committee agrees to consider other proposals and possible actions.
ANNEX

WORLD TRADE ORGANIZATION

Committee on Sanitary and Phytosanitary Measures

NOTIFICATION

Addendum

The following communication, received on DD/MM/YY, is being circulated at the request of the Delegation of [Member].

Title outlining the SPS measure at issue

[Text describing any modification to the notified measure.]

Special and Differential Treatment

(1) Name(s) of Member(s) that requested special and differential treatment

(2) Special and differential treatment provided [ ] Yes [ ] No
Describe how such treatment was provided, including what form it took.

(3) If special and differential treatment was not provided, indicate why it was not provided and whether technical assistance or any other solution was found to address the identified concern.

Text available from: [ ] National Notification Authority, [ ] National Enquiry Point, or address, fax number and E-mail address (if available) of other body:
REPORT ON PROPOSALS FOR SPECIAL AND DIFFERENTIAL TREATMENT

Adopted by the Committee on 30 June 2005

I. INTRODUCTION

A. BACKGROUND

1. On 1 August 2004, the General Council adopted the following decision with respect to special and differential treatment:

"... the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far ...

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions."  

Furthermore, in the Doha Development Round Declaration, Ministers agreed:

"... that all special and differential treatment provisions shall be reviewed with a view to strengthening them, and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns."  

1 WT/L/579.
2 WT/MIN(01)/DEC/1, para. 44. Paragraph 12.1 of the Decision on Implementation-Related Issues and Concerns. (WT/MIN(01)/17) reads as follows:

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

(i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;

(ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in
2. Among the 38 proposals in Category II, five were referred to the SPS Committee. These proposals concern specifically the provisions of Articles 9 and 10 of the SPS Agreement. The text of these articles and of the five proposals are reproduced below for ease of reference.

3. These proposals have previously been considered in various formal and informal meetings of the General Council, the Committee on Trade and Development, and the SPS Committee. This draft report is based on the discussions of these proposals and of special and differential treatment in the formal and informal meetings of the SPS Committee, as well as during informal consultations held on 28 January, 15 and 18 February, 18 and 24 May 2005. It also includes comments on the background document prepared by the Secretariat (G/SPS/GEN/543).

B. CONSIDERATIONS IN PREPARING THIS REPORT

4. In the context of the discussions of the proposals in the SPS Committee and in other WTO bodies, many Members have indicated that they are opposed to any formal modification of the text of the SPS Agreement at this time, whereas other Members have indicated that they would agree to consider such modification if this were deemed necessary. A broad consensus exists to actively seek alternative, concrete avenues to fulfill the mandate before undertaking specific changes in the text of the SPS Agreement. One major concern is that modification of Articles 9 and 10 could result in changes to the balance of rights and obligations established by the SPS Agreement, and could lead to changes in the text of other provisions. Many Members consider any such changes to be unacceptable, unnecessary to address the underlying concerns of developing country Members, and in particular least-developed country Members.

5. Members have stressed that it is not the intention of any of the proposals to impinge on the right of any Member to implement scientifically justified SPS measures necessary to ensure that products moving in international trade do not present unacceptable risks to human, animal or plant life or health, or to the territory of a Member. Trade in products considered to be unsafe or sub-standard would have deleterious effects on consumer demand, reflect poorly on the exporting Member's reputation, and unnecessarily call regulatory competencies into question. At the same time, Members recognize that developing country Members, and in particular least-developed country Members, face specific difficulties in meeting the sanitary and phytosanitary requirements of many of their trading partners, and need targeted technical assistance. Import requirements that differ from those based on the relevant international standards, while not necessarily inconsistent with the SPS Agreement, can pose considerable difficulties to developing countries.

6. The SPS Agreement is relatively new, and some Members are still in the process of adjusting to and developing more effective implementation of the expanded new disciplines established by the Agreement. For developing country Members, most of the provisions of the Agreement became applicable only as of January 1997; for the least-developed country Members, the date of application was January 2000. Recent studies have shown that the level of knowledge and understanding of the particular least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and (iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

3 See relevant sections of reports of meetings of the SPS Committee (G/SPS/R/Series), as well as G/SPS/23, G/SPS/24, G/SPS/27 and Corr.1, G/SPS/30.

4 See, inter alia, Article 3.3
Agreement remains relatively low, and that academic and institutional responses are also nascent. A number of WTO Members have not as yet fulfilled obligations relating to the identification of a national notification authority and of an SPS enquiry point, and many have not submitted any notifications of new or revised SPS measures.

7. At the same time, it is apparent from the studies undertaken by the World Bank and others that SPS measures and the application of the SPS Agreement are of increasing importance to the movement of goods in agricultural trade. This importance is expected to increase, for all WTO Members. Members have recognized that developing country Members, and in particular least-developed country Members, face specific difficulties in effectively implementing provisions of the SPS Agreement, including the transparency provisions. Members have indicated their commitment to assist in addressing the specific difficulties and to ensure improved capacities and efficiencies.

8. This report describes some underlying concerns and common objectives as identified by Members in the Committee's discussions. Developments which have occurred since the proposals were submitted in 2002, and which address, in part, these concerns or objectives are also described. The report also describes constraints faced by the Committee in the development of precise, effective and operational recommendations on the five proposals referred to it by the General Council. The report identifies initial elements that could be examined by the SPS Committee with a view to providing more precise, effective and operational means to address, at least in part, identified concerns.

II. RELEVANT SPS PROVISIONS

Article 9
Technical Assistance

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

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5 "Food Safety and Agricultural Health Standards: Challenges and Opportunities for Developing Country Exports", World Bank Report No. 31207, 10 January 2005.
6 G/SPS/W/173/Rev.2, paragraphs 26 and 27.
7 Idem.
2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

Article 10

Special and Differential Treatment

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.

2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.

3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.

4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

III. TEXTS OF THE PROPOSALS

A. PROPOSALS RELATING TO ARTICLE 9.2

9. To make this mandatory provision effective and operational it is proposed that the clause "shall consider providing" be changed to "shall provide". It is further proposed to add the following sentence to the provision:

"If an exporting developing country Member identifies specific problems of inadequate technology and infrastructure in fulfilling the sanitary or phytosanitary requirements of an importing developed country Member, the latter shall provide the former with relevant technology and technical facilities on preferential and non-commercial terms, preferably free of cost, keeping in view the development, financial and trade needs of the exporting developing country."\(^8\)

10. The phrase "substantial investments" in Article 9.2 shall be construed relative to resources of concerned government departments in developing and least-developed country Members and to their development needs. Any changes that would require additional resources to existing levels of current expenditure or their restructuring, or additional training or staffing, shall be construed to amount to "substantial investments".\(^9\)

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\(^8\) TN/CTD/W/2.

\(^9\) TN/CTD/W/3/Rev.2.
11. Where the importing Member does not actually provide such technical assistance, that Member shall withdraw the measures immediately and unconditionally; or the importing Member shall compensate the exporting developing country Members for loss resulting directly or indirectly from the measures.\(^\text{10}\)

12. It is understood that technical assistance shall be fully funded technical assistance and shall not entail financial obligations on the part of the exporting developing and least-developed country Members.\(^\text{11}\)

13. It is agreed that the WTO shall recommend that impact assessments shall be conducted to determine the likely effect on the trade of developing and least-developed country Members for any proposed standards before adoption, and if the impact would be adverse, the standards would not become applicable until it is established that developing and least-developed country Members that would be affected have acquired the capacity to beneficially comply with them.\(^\text{12}\)

B. PROPOSALS RELATING TO ARTICLE 10.1

14. For effective operationalization of Article 10.1, it is suggested that the following addition be made to the existing provision:

"If an exporting developing country Member identifies specific problems in complying with a sanitary or phytosanitary measures of an importing developed country Member, the latter shall upon request enter into consultations with a view to finding a mutually satisfactory solution.

In this regard, such special needs shall include: securing and enhancing current levels of exports from developing and least developed country members, maintain their market shares in their export markets, as well as developing their technological and infrastructural capabilities. While notifying a measure, Members shall, *inter-alia*, indicate the following: (i) systems and/or equivalent systems that could be used to comply with such a measure; (ii) the names of the developing and least-developed country Members that could be affected by the applied measure."\(^\text{13}\)

15. The requirement to "take account of the special needs of developing country Members, and in particular least developed country Members" in Article 10.1 shall be understood to mean that Members shall either withdraw measures that adversely affect any developing and least-developed country Members or which they find difficult to comply with, or shall provide the technical and financial resources necessary for the developing and least-developed country Members to comply with the measures.\(^\text{14}\)

16. The requirement shall be further understood to mean that Members shall always initiate consultations in the Committee whenever they propose or intend to take any measures that are likely to affect imports from developing and least-developed country Members. In the consultations, Members shall establish whether or not the proposed or intended measures, if justified under the Agreement, would adversely affect any developing and least-developed country Members.\(^\text{15}\)

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\(^\text{10}\) Ibid.
\(^\text{11}\) Ibid.
\(^\text{12}\) Ibid.
\(^\text{13}\) TN/CTD/W/2.
\(^\text{14}\) TN/CTD/W/3/Rev.2.
\(^\text{15}\) Ibid.
17. Members shall establish a facility within the Global Trust Fund for ensuring that:

(a) developing and least-developed country Members have the financial and technical capacity to meet the requirements under the Agreement;

(b) delegations from developing and least-developed country Members attend and effectively participate in meetings of the Committee and relevant international standard-setting organisations;

(c) developing and least-developed country Members effectively utilise the flexibility under the Agreement; and

(d) measures adopted under the Agreement do not contravene the rights of developing and least-developed country Members.\(^\text{16}\)

18. It is understood that technology transfer and any technical and financial assistance under the Agreement to developing and least-developed country Members shall be cost free.\(^\text{17}\)

C. PROPOSAL RELATED TO ARTICLE 10.4

19. In Article 10.4 of the Agreement on the Application of Sanitary and Phytosanitary Measures the term "should" be read to express "duty" rather than mere exhortation. This could be clarified through an authoritative interpretation under Article IX.2 of the Marrakesh Agreement Establishing the WTO. This would help achieve the intended objective of this S&D provision.\(^\text{18}\)

IV. UNDERLYING CONCERNS

20. The underlying concerns relate to key difficulties developing countries may face in meeting new or modified SPS requirements of their trading partners, and hence in achieving or maintaining access to markets for their products. Import requirements that differ from those based on the relevant international standards, while not necessarily inconsistent with the Agreement,\(^\text{19}\) can pose considerable difficulties to developing countries. Developing country Members may lack the necessary knowledge, infrastructure or technology to deal with new requirements. These deficiencies can often not be overcome without initial institutional development, technical and financial assistance. These deficiencies can have negative consequences on the acceptability of products for trade.

21. Members attach importance to technical assistance being provided both on a bilateral basis and through relevant international organizations. However, such assistance is often characterized as supply-driven, and may be determined to a greater extent by the policy interests of the donor rather than the specific needs of the recipient. At the same time, Members noted the general paucity of demand-driven requests, apparently partially due to institutional capacity constraints. Furthermore, Members expressed concern that in the absence of more targeted, specific trade assistance goals, addressing timeliness and sustainability in an efficient manner is highly difficult. A particular concern is provision of assistance only after a developing country Member has lost market access due to a SPS measure. Another concern reflects the uncertainty of support and a desire to ensure that technical assistance is more predictable. Some developing country Members also maintain that a simplification of the administrative procedures of developed country Members would make it less costly and easier for developing country Members to comply with their SPS requirements and export. Some Members have indicated that one advantage of making these provisions binding is that

\(^{16}\) Ibid.

\(^{17}\) Ibid.

\(^{18}\) TN/CTD/W/6.

\(^{19}\) See, *inter alia*, Article 3.3
developing country Members would no longer be required to specifically request technical assistance; however, all Members recognize that technical assistance should be more needs- and results-driven.

22. The general effectiveness of technical assistance has been questioned. In particular, a number of developing country Members have indicated that much of the assistance they have received has not had the desired effect of allowing them to maintain or achieve export opportunities in the face of new or existing SPS requirements. This concern underlies a desire to find more effective means to ensure the better overall performance and demonstrated specific results of technical assistance.

23. Developing country Members have further identified the need for special and differential treatment, in particular in the context of allowing more time for them to adjust to new requirements for the products they export.

24. Another underlying concern relates to the difficulties faced by developing country Members in effectively participating in the work of the SPS Committee and relevant international standard-setting bodies. Physical presence at meetings is necessary, but to ensure that participation is effective the necessary expertise and coordination must be built-up within developing country Members.

V. RELEVANT DEVELOPMENTS

25. The Decision on Implementation taken at the Doha Ministerial Conference in 2001 included inter alia a clarification on Article 10.2. It specifies that where the appropriate level of protection allows scope for the phased introduction of SPS measures, the "longer time-frame for compliance" referred to in Article 10.2 shall be understood to mean normally a period of not less than six months. Where the phased introduction of a new measure is not possible, but a Member identifies specific problems, the Member applying the new measure shall enter into consultations, upon request, to try to find a mutually satisfactory solution. The Decision also indicated that, subject to the conditions specified in paragraph 2 of Annex B of the SPS Agreement, a period of not less than six months shall normally be provided between the publication of a measure and its entry into force. Finally, the Doha Ministerial Decision instructed the SPS Committee to undertake a review of the operation and implementation of the SPS Agreement every four years.

26. Since the proposals were submitted in 2002, a number of developments have occurred which address some of the underlying concerns. With respect to the three standard-setting bodies of relevance under the SPS Agreement, trust funds have been established to increase participation of developing country Members in the standard-setting activities of the International Plant Protection Convention (IPPC) and of the FAO/WHO Codex Alimentarius Commission (Codex), and the World Organization for Animal Health (OIE) will establish a trust fund before the end of 2005. These trust funds are supported through contributions by donor agencies and member countries.

27. With respect to the Codex trust fund established by FAO/WHO, during the period March to December 2004, a total of 83 persons from 75 countries attended 14 separate Codex meetings, including the Codex Alimentarius Commission meeting held in June-July 2004. All 83 participants were funded entirely by the Codex Trust Fund and most were government officials from least developed countries. The breakdown of participants was: 60 per cent from least-developed and other lower income countries; 29 per cent from lower middle income countries; and 11 per cent from

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20 WT/MIN(01)/17, paragraph 3.1.
21 The report of this review, the second since the entry into force of the Agreement, is contained in document G/SPS/36.
22 See proposals in paras. 17(b) and 19 above.
upper middle income countries.\textsuperscript{23} In order to improve the effectiveness of the trust fund, FAO/WHO plan an information meeting of both donor and beneficiary Members in July 2005.

28. In 2004, the IPPC established a trust fund under FAO rules to be used exclusively to the direct benefit of developing countries. It is used to facilitate their participation and involvement in all IPPC activities, including in the Interim Commission on Phytosanitary Measures, in regional workshops on draft international standards for phytosanitary measures, in Expert Working Groups, and also in phytosanitary capacity-building and information exchange.\textsuperscript{24}

29. The OIE will establish a trust fund before the end of 2005. The OIE also continues to provide financial support for the participation of Chief Veterinary Officers of its member countries in OIE standard-setting activities.

30. Since the SPS Agreement entered into force, the FAO/WHO, OIE and IPPC have also developed and/or strengthened technical assistance programmes, including conferences, seminars and workshops, to enhance national capacities on SPS matters. The IPPC developed a diagnostic tool, the Phytosanitary Capacity Evaluation (PCE), to help countries address their current capacity and identify needs for assistance.\textsuperscript{25} Similar diagnostic tools have been developed by the FAO/WHO with respect to food safety, and recently by OIE.\textsuperscript{26} In addition, other international and regional organizations, including the World Bank, OIRSA, IICA, UNIDO and UNCTAD, provide regular updates to the SPS Committee on their programmes related to SPS capacity building.

31. In order to address some of the needs identified with respect to technical assistance, the Secretariat has undertaken numerous regional and national training workshops on the SPS Agreement, and, in particular, on how Members can use the provisions of the Agreement to facilitate their trade interests.\textsuperscript{27} The Secretariat also organized workshops in Geneva on: technical assistance needs and how to best address these in relation to the SPS Agreement (November 2002); the principles and methods of risk analysis (June 2000); the processes and procedures of the relevant standard-setting organizations (March 2001); and on the effective operation of national SPS enquiry points (November 2003). Furthermore, the Secretariat has developed a number of tools to assist Members with the understanding and implementation of the Agreement, including a booklet on "Understanding the SPS Agreement"\textsuperscript{28}; a handbook on the application of the transparency provisions of the Agreement; and an inter-active CD-ROM explaining and discussing in detail the provisions of the Agreement and circulated two questionnaires on technical assistance to Members.

32. In September 2002, following consultations by the Director-General with the FAO, OIE, WHO and the World Bank as requested by the General Council in October 2000, the Standards and Trade Development Facility (STDF) was established. The purpose of the STDF, which is administered by the WTO, is to enhance the capacity of developing countries in the SPS area through the provision of funding for projects in developing countries, as well as through cooperation between the relevant institutions in SPS-related activities including joint institutional projects.\textsuperscript{29} This facility can be used to finance projects to assist developing country Members, and in particular least-developed country Members, make more effective use of all of the provisions of the SPS Agreement,

\textsuperscript{23} More information on the Codex Trust Fund is available in documents G/SPS/GEN/564 and 565, and from the web site http://www.who.int/foodsafety/codex/trustfund/en/
\textsuperscript{24} G/SPS/GEN/482.
\textsuperscript{25} http://www.ippc.int.
\textsuperscript{26} See G/SPS/GEN/525; also "Performance, Vision and Strategy (PVS) for National Veterinary Services", available from http://www.oie.int.
\textsuperscript{27} These training activities are described in more detail in document G/SPS/GEN/521.
\textsuperscript{28} WTO Agreements Series, Volume No. 4
\textsuperscript{29} The Secretariat reports regularly to the SPS Committee on the STDF, most recently in G/SPS/GEN/523.
including those related to dispute resolution. As of June 2005, the STDF had funded approximately US$2 million of projects and project preparation grants. These include projects proposed by developing country Members, as well as pilot projects developed to address specific needs identified by developing country Members in the SPS Committee. The STDF also maintains a database, which provides information on SPS-related technical assistance and capacity building projects.

33. Several Members have also created specific mechanisms to assist developing countries to participate in the relevant international institutions and in the activities of the SPS Committee, such as the Initiative for the Americas on Sanitary and Phytosanitary Measures. Furthermore, bilateral technical assistance related to SPS capacity is being provided by many Members.

34. Guidelines and decisions adopted by the Committee have regularly taken into consideration the specific needs and concerns expressed by developing country Members. These include the recommended procedures for implementing the transparency provisions of the SPS Agreement (G/SPS/7/Rev.2 and Add.1 and 2); the guidelines to further the practical implementation of Article 5.5 (G/SPS/15), and the decision on the implementation of Article 4 of the Agreement regarding recognition of equivalence (G/SPS/19/Rev.2). For example, the most recently revised recommended procedures for the implementation of the transparency provisions of the Agreement, and the related format for the notification of SPS measures, request the identification of which Members or regions may be particularly affected by the measure being notified (G/SPS/7/Rev.2).

35. Furthermore, in October 2004, the Committee finalized a procedure to enhance both the provision and the transparency of special and differential treatment or technical assistance (G/SPS/33). The decision by the Committee requires an importing Member to consider any requests for special and differential treatment or technical assistance which are made in response to the importing Member's notification of a new or modified SPS measure. The importing Member is to subsequently submit a specific addendum to its notification which indicates that special and differential treatment or technical assistance had been requested; the Member(s) affected; the concern(s) identified; if special and differential treatment was provided, and if so, the treatment provided. This procedure is intended to ensure that the importing Member consults with any developing country Member that has expressed a concern regarding the potential effect of the proposed new/modified measure on its exports with the aim of finding a means to address their concerns. The notification of solutions ensures fullest transparency, especially for other developing country Members.

36. Each regular meeting of the SPS Committee provides any Member with the opportunity to raise specific trade concerns, including proposed measures not yet implemented. Unfortunately, many developing country Members, and in particular least-developed country Members, continue to find it difficult to participate in the meetings of the SPS Committee. Nonetheless, a growing number of developing countries are participating actively under this agenda item in the SPS Committee meetings. Developing country Members have raised 101 of the approximately 200 specific trade concerns with respect to measures proposed or taken by other trading partners which adversely affect their trade interests, although least-developed country Members have raised only two concerns.

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30 See proposals in paras. 9, 15 and 17 (a), (c) and (d).
32 G/SPS/GEN/549.
33 Paragraphs 27 to 46 of document G/SPS/GEN/543 provide a summary description of recent actions taken to enhance the provision of SPS-related technical assistance.
34 See proposal in para. 13.
35 See proposals in paras. 9, 13, 14, 15 and 16.
36 The European Communities was counted as one Member. Similarly, when one Member spoke on behalf of ASEAN, it was counted as one Member only. On certain issues, more than one Member has raised the same concern at a Committee meeting. Hence although the total number of specific trade concerns raised since 1995 is 204, the number of Members raising concerns, 246, is higher.
149 cases, a developing country Member has supported another Member raising an issue. In a number of cases, discussions in the Committee have provided the impetus for bilateral actions to resolve these problems. Several developing country Members have also made use of the good offices of the Chair of the SPS Committee to seek resolution of specific trade problems. The WTO also provides assistance to developing country Members, and in particular least-developed country Members, involved in dispute settlement proceedings, as does the Advisory Centre on WTO Law, established in 2001.

VI. CONSTRAINTS TO FRAMING RECOMMENDATIONS

37. The Committee faces a number of constraints in elaborating recommendations to ensure that the concerns of developing country Members are addressed in a precise, effective and operational manner. First, there has been a paucity of concrete recommendations submitted by Members since the Committee was first requested to consider this issue in 2003. Second, the proposals submitted in 2002 have implications at many levels, including at the bilateral level, within the WTO as a whole, within the SPS Committee, at the level of the international standard-setting bodies, as well as at technical levels for executing capacity building, and in political and negotiating contexts.

38. A number of the submitted proposals would require actions outside of the sphere of influence of the SPS Committee, such as actions by the international standard-setting bodies, or by other institutions. The SPS Committee could, however, agree to draw certain issues to the attention of these other bodies, and encourage WTO Members to pursue certain results within the context of Members' involvement in the work of these other bodies.

39. Of particular note is that the SPS Committee has only recently discussed the proposals and the underlying concerns with some specificity and frankness, and only recently have some concrete examples been described of problems due to the lack of specific trade-related, needs-based technical assistance or of special and differential treatment. Formulation of precise modifications or operational recommendations on the five proposals remains a challenge.

40. Finally, these discussions have revealed an "expectations gap" between Members. All Members acknowledge that better-targeted and more effective technical assistance aimed at specific results will benefit developing country Members. This can, however, only be achieved by more successful communications and competent teamwork among involved Members. This commitment appears necessary to, at minimum, maintain the market access opportunities for products from developing country Members.

VII. CONCLUSIONS

41. The SPS Committee has to date been unable to develop any clear recommendations for a decision on the proposals on special and differential treatment referred to it by the General Council.

42. The Committee notes that some Members have indicated their intention to revise some of these proposals, and would welcome an opportunity to consider the revised proposals. Furthermore, the Committee agrees to continue to examine the proposals before it with the aim of developing specific recommendations.

37 G/SPS/GEN/204/Rev.5.
38 Argentina, Chile, South Africa and Uruguay with respect to measures relating to citrus canker taken by the European Communities; the United States with respect to restrictions on wheat and oilseeds maintained by Poland; and Canada with respect to import restrictions on bovine semen maintained by India.
39 http://www.acwl.ch/e/index_e.aspx
43. Building on previous discussions in the SPS Committee on special and differential treatment and technical assistance, the SPS Committee agrees to expeditiously undertake discussions on further work to assist the Committee to address the concerns underlying the proposals as identified by Members with a view to fulfilling the Doha Development Mandate. The following represent some initial elements for this discussion:

(a) Identify best practices, through which developing country Members, and in particular least-developed country Members, can become informed in a timely manner of SPS requirements of priority to their trade. The Committee will, inter alia, undertake to:

- identify specific actions to make existing transparency procedures more effective and operational for developing country Members, and in particular least-developed country Members;
- determine how Members and the Secretariat can facilitate such actions;
- examine whether further changes in the recommended transparency procedures would be useful.

(b) Identify means through which developing country Members, and in particular least-developed country Members, can more productively evaluate which SPS requirements of their trading partners present trade problems. The Committee will consider, inter alia:

- the extent to which Members can more efficiently identify at the earliest possible stage potential trade problems for developing country Members, and in particular least-developed country Members;
- if a forum for the exchange of comments on notifications can operationally address some key concerns of developing country Members, and in particular least-developed country Members;
- if problems identified in respect to any specific notified measure are limited to a particular country or region, or if they represent a more systemic barrier for developing country Members, and in particular least-developed country Members.

(c) Consider how developing country Members, and in particular least-developed country Members, can make greater use of the opportunities provided by the SPS Committee to identify and resolve specific trade concerns. The Committee will, inter alia, examine:

- how to facilitate the effective participation of developing country Members, and in particular least-developed country Members, in the SPS Committee;
- how to facilitate the use of existing or new mechanisms for resolving specific trade problems.

(d) Develop more effective mechanisms to monitor the demand and supply of technical assistance with the objectives of improving predictability, timeliness and results relative to specific trade-related needs of developing country Members, and in particular least-developed country Members. The SPS Committee will, inter alia:
• evaluate the effectiveness of current sources of information on technical assistance, including the STDF database, the two SPS Secretariat questionnaires, and ad hoc summary submissions by Members;

• identify mechanisms to provide opportunities for recipient countries to report on how they have utilized technical assistance received, and to identify areas where future technical assistance could be most effectively targeted;

• identify mechanisms for the Committee to assess the overall effectiveness of current technical assistance programmes and the extent to which recipient countries have utilized available technical assistance to meet specified needs and achieve desired results;

• consider how to improve "global SPS clearing-house" instruments to better align trade-related SPS technical assistance resources with assessed SPS needs;

• identify how to reduce repetitive questionnaire requests to recipient Members, including through exploring the feasibility of establishing "balance sheets" on SPS-related technical assistance at the national level;

• identify examples and pursue recommendations of how SPS capacity-building can be effectively integrated into national development plans;

• identify how developing country Members, and in particular least-developed country Members, can more effectively request trade-related technical assistance, in particular through improved identification of, and access to, key technical assistance decision-making processes in both donor and recipient Members, and as appropriate, in other relevant bodies.

(c) Develop best practices for SPS technical assistance under the WTO Global Trust Fund with the aim of making these programmes more effective, precise and operational. The Committee will, inter alia,

• identify ways to effectively improve and demonstrate specific results prior to, during and following national and regional training events, focusing on goal-oriented preparation, appropriate (decision-making) participants, and specific follow-up work programmes;

• identify ways to improve the targeting of technical assistance by (i) evaluating, on the basis of feedback from recipients, the effectiveness of previous assistance, and (ii) identifying the specific needs of developing countries for future technical assistance.

• develop an informal modus operandi to monitor the effectiveness and sustainability of SPS training events under the WTO Global Trust Fund;

• evaluate the first WTO specialized course on the SPS Agreement to be held in the fall 2005 at the WTO Training Institute, and make recommendations as appropriate.
VIII. RECOMMENDATION

44. The SPS Committee recommends that the General Council:

(a) Take note of this report.

(b) Take note of the Committee's commitment to continue to examine the proposals before it, and any revision of these proposals, with the aim of developing specific recommendations for a decision.

(c) Take note of the Committee's commitment to expeditiously undertake discussions on further work to assist the Committee to address the concerns underlying the proposals as identified by Members.

(d) Instruct the Committee to report progress to the General Council on (b) and (c) above.
PROCEDURE TO ENCOURAGE AND FACILITATE THE RESOLUTION OF SPECIFIC SANITARY OR PHYTOSANITARY ISSUES AMONG MEMBERS IN ACCORDANCE WITH ARTICLE 12.2

DECISION ADOPTED BY THE COMMITTEE ON 9 JULY 2014

The Committee on Sanitary and Phytosanitary Measures ("the Committee"),

Having regard to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("the Agreement");

Seeking to further encourage and facilitate the resolution of specific sanitary or phytosanitary issues among Members, in accordance with the provisions of Article 12.2 of the Agreement;

Recalling that the Working Procedures of the Committee permit the Chairperson of the Committee to assist Members to deal with any matter which has been raised under the Agreement, upon a request by the Members directly concerned;

Noting that the ad hoc consultation mechanism, foreseen in Article 12.2 of the Agreement and in the Working Procedures of the Committee, offers Members an additional route for dialogue and exchange of information on sanitary and phytosanitary concerns;

Recalling that during the reviews of the operation and implementation of the Agreement, Members recognized the usefulness of application of Article 12.2, and encouraged the use of ad hoc consultations, including through the good offices of the Chairperson of the Committee;

Decides as follows:

1 GENERAL PROVISIONS

1.1. This procedure is intended to encourage and facilitate the resolution of specific sanitary or phytosanitary issues among Members, with a view to assist Members to reach mutually satisfactory solutions, according to Article 12.2 of the Agreement. Member participation in this procedure is voluntary.\(^1\)

1.2. This procedure is without prejudice to the rights and obligations of Members under the SPS Agreement or any other WTO agreement and shall not constitute a legally binding agreement. This procedure is not intended to prejudice in any way the process or outcome of the work of other WTO bodies.

1.3. Any Member(s) may at any time request consultations with another Member(s) regarding any sanitary and phytosanitary measure(s) as described in Annex A(1) of the SPS Agreement.

\(^{1}\) By voluntary participation, it is understood that a Member that has received a request for consultation is free to accept or reject that request.
2 PROCEDURE FOR ADDRESSING CONCERNS REGARDING SPS ISSUES

2.1 Request for Consultations

2.1. A Member (hereinafter the "requesting Member") requests consultations with another Member (the "responding Member"), in writing, in a WTO working language. The request will identify the measure(s) to be consulted on, describe the reasons for requesting consultations, and provide a description of the requesting Member's concern regarding the possible effects on trade. Further, the request may provide any preliminary questions and concerns regarding the measure(s), and may identify any relevant provision(s) of the Agreement and relevant international standards, guidelines or recommendations adopted by the pertinent international organizations as referred to in the Agreement.

2.2. In addition to sending the request to the responding Member, the requesting Member sends at the same time a copy of the request to the Chairperson of the Committee and the Secretariat. If the requesting Member wishes, a copy of the request or a summary thereof will also be made available to the Committee as a WTO document.

2.2 Response to a Request

2.3. Unless otherwise mutually agreed upon by the responding and requesting Members, as provided below under paragraph 2.4, the responding Member will, within 30 days of receiving a request, provide a written response in a WTO working language simultaneously to the requesting Member, the Chairperson of the Committee and the Secretariat, accepting or rejecting the request for consultations. To the extent possible, when submitting a negative response, the responding Member will address the concerns and issues raised in the request. If the responding Member wishes, a copy of the response or a summary thereof will also be made available to the Committee as a WTO document.

2.4. In the event that both the requesting and responding Members mutually agree upon a timeframe other than the prescribed 30-day period, both Members should inform the Secretariat of the timeframe agreed upon prior to the expiration of the original 30-day period.

2.5. If both the requesting and responding Members wish to circulate their request and response to the Committee as WTO documents, the request and response would normally be circulated together. Circulation occurs upon the Secretariat's receipt of the response. In the event that the requesting Member chooses to circulate its request, but no response is received within the 30-day or otherwise agreed upon deadline, or if the responding Member declines to circulate its response, the request will be circulated without a response after the expiry of such deadline. Conversely, in the event that a responding Member chooses to circulate its response, but the requesting Member declines to circulate its request, the response will be circulated without the request, upon its receipt.

2.6. At the subsequent meeting of the Committee, the Chairperson will inform the Committee of any request for consultations made under this procedure since the last meeting of the Committee and the corresponding answer to that request (i.e., whether the request was accepted, rejected) and of all on-going consultations under a separate agenda item.

2.7. Any information considered confidential by any of the requesting or responding Members (hereinafter the "consulting Members") will not be shared with the Committee without their agreement.

2.3 Consultation Procedure

2.8. When the responding Member has accepted the consultation request, the consulting Members will agree on a Facilitator. The Chairperson of the Committee will normally serve as the Facilitator, unless the consulting Members decide otherwise.

2.9. The role of the Facilitator is to encourage and facilitate an exchange between the consulting Members on specific SPS issues raised in the consultations with a view to resolving the issue. With the agreement of the consulting Members, the Facilitator may suggest one or more possible ways forward in an attempt to resolve the concerns.
2.10. At the start of consultations, the Facilitator and the consulting Members should agree on a schedule, format and place of meetings, and determine under what terms and conditions the input of technical expertise and third party participation is desirable.

2.11. The Facilitator shall communicate about the SPS issue in question only with the consulting Members and, in the event there are any, also with third party participating Members. Such communication shall be consistent with the terms agreed to in paragraph 2.12.

2.12. All communications (whether in oral or written form) in the course of the consultation between the Facilitator and consulting Members, and, where relevant, third party participating Members, shall be confidential. All documents generated by a Facilitator or a consulting or third party participating Member shall be confidential, unless otherwise agreed by the consulting Members, and without prejudice to the rights and obligations of a Member under the WTO Agreement, or any other international agreement to which it is a party.

2.13. The consulting Members shall complete the consultations within a reasonable period of time that shall be mutually agreed, and should not exceed 180 days, unless they agree on a different timeframe. Any of the consulting Members may decide to end the consultations at any time, and should do so through written notification to the other consulting Member(s). The Member or Members (if acting jointly) will promptly provide written notification to the Facilitator, the Chair and the Secretariat that the consultations have ended.

2.14. The Facilitator shall prepare and issue a written factual report on the consultations to the consulting Members, unless the consulting Members agree to prepare a joint report themselves. If prepared by the Facilitator, prior to issuing this report, the Facilitator will provide consulting Members with a draft report. Consulting Members shall normally be given 30 days to comment. The Facilitator shall issue a final, factual report to the consulting Members reflecting their comments. Unless otherwise agreed by the consulting Members, the Facilitator's or the consulting Members' report will be confidential and will not be shared with the Committee or any other Members or any other WTO body.

2.15. The Chair will report the general outcome of the consultations to the Committee in accordance with the established Working Procedures. If agreed by all consulting Members, the Facilitator will make available the final factual report, or a summary thereof, to the Committee as a WTO document. The report will not contain confidential information unless all consulting Members consent to the inclusion of such information.

3 TECHNICAL ASSISTANCE

3.1. Developing country Members, and in particular least-developed country Members, may request assistance from the WTO Secretariat to promote their understanding of the use and functioning of these procedures.

4 MONITORING

4.1. The Secretariat will report once a year on the use of this procedure to the Committee.

5 REVIEW AND DURATION

5.1. The Committee shall consider the implementation of this procedure as an integral part of the periodic review of the Operation and Implementation of the Agreement under Article 12.7. As part of that review, and no later than four years from the adoption of this procedure, the Committee shall decide whether to continue, modify or terminate this procedure in light of the experience of Members in its implementation and relevant developments in other WTO bodies.

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2 G/SPS/1, paragraph 6.
WORLD TRADE ORGANIZATION

Committee on Sanitary and Phytosanitary Measures

**ACTIONS REGARDING SPS-RELATED PRIVATE STANDARDS**

**Decision of the Committee**

**INTRODUCTION**

1. The SPS Committee has been discussing the issue of SPS-related private standards since June 2005, when Saint Vincent and the Grenadines raised a specific trade concern regarding EurepGAP (now called GLOBALGAP) requirements for bananas destined for sale in the United Kingdom. Since then, private standards have been discussed regularly at SPS Committee meetings.

2. The SPS Committee decided in October 2008 to request an ad hoc working group to undertake a three-step study, and present a report proposing concrete actions for consideration by the Committee at the end of this process.

3. The ad hoc working group on SPS-related private standards completed its work on identifying "Possible Actions for the SPS Committee Regarding SPS-Related Private Standards", and presented its report to the SPS Committee. The report of the working group is contained in document G/SPS/W/256.

4. At its meeting of 30-31 March 2011, the Committee adopted five of the six actions put forward by the working group for endorsement. The five actions are listed below. Endorsement of these actions is without prejudice to the views of Members regarding the scope of the SPS Agreement.

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**Action 1: The SPS Committee should develop a working definition of SPS-related private standards and limit any discussions to these.**

5. It is apparent from the discussions in the WTO and from the literature on this issue that private standards are already playing and will continue to play an increasingly important role in international trade and pose new challenges as well as opportunities for producers and exporters. They cover safety, quality, labour, social and environmental issues and can affect a wide range of products.

6. Given its mandate, the SPS Committee should focus any discussions solely on SPS-related private standards, most of which are currently in the area of food safety. However, some Members have expressed concerns that the discussions have covered issues beyond SPS-related private standards. One of the reasons for this is that many private standards include food safety as well as other requirements, making it more difficult to single out the SPS-related requirements and determine

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1 G/SPS/GEN/766; specific trade concern no. 219.
2 See paras. 4-7 of G/SPS/W/230 and paras. 122-137 of G/SPS/R/53.
whether any trade effects can be attributed directly to these. At the same time, producers and exporters do not necessarily focus on the distinction between SPS versus TBT measures or public versus private standards, but rather on whether they are able to fulfill all the requirements imposed by the importers.

7. Given its mandate, the SPS Committee would limit any discussions to:

Requirements which are established and/or adopted by non-governmental entities to fulfill one of the four objectives stated in Annex A, paragraph 1 of the SPS Agreement and which may affect international trade. These four objectives are:

(a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;

(b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;

(c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests;

(d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Action 2: The SPS Committee should regularly inform the Codex, OIE and IPPC regarding relevant developments in its consideration of SPS-related private standards, and should invite these organizations to likewise regularly inform the SPS Committee of relevant developments in their respective bodies.

8. One of the concerns raised regarding SPS-related private standards has been that they sometimes deviate from the standards established by the international standard-setting bodies (ISSBs) referenced in the SPS Agreement, which are the Codex Alimentarius Commission (Codex), the World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPC). For example, in the area of food safety, some retail schemes have been identified as having maximum residue limits (MRLs) which are more restrictive than those set by Codex. In the area of animal health, examples of private standards with more trade-restricting BSE\(^3\) requirements than those of the OIE have been provided.

9. Given the interlinkages between SPS-related private standards and the standards developed by Codex, OIE and IPPC, these bodies would benefit from regular information exchanges on this topic. In addition, the Secretariats of the four organizations should inform each other regarding their work in this area, keeping in mind that the scope of work on private standards in the international standard-setting bodies may not be the same as that of the SPS Committee. Such updates by the ISSBs could be presented under: "Information on Relevant Activities – Information from Observer Organizations".

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\(^3\) Bovine Spongiform Encephalopathy.
**Action 3:** The SPS Committee invites the Secretariat to inform the Committee on developments in other WTO fora which could be of relevance for its discussions on SPS-related private standards.

10. Private standards play an increasingly important role in international trade and may become a subject of discussion in various formal or informal WTO fora. While such discussions are likely to go beyond SPS issues, there could also be linkages. For example, a private standard could contain both TBT as well as SPS-related requirements or its environmental requirements could cover SPS aspects. Also, horizontal concepts such as transparency could be considered. In this context, it would be beneficial for the SPS Committee to keep abreast of relevant developments in the WTO.

**Action 4:** Members are encouraged to communicate with entities involved in SPS-related private standards in their territories to sensitize them to the issues raised in the SPS Committee and underline the importance of international standards established by the Codex, OIE and IPPC.

11. The SPS Committee has been discussing the issue of SPS-related private standards since 2005. While Members are by now quite familiar with each other's concerns and positions on this issue, it is not clear to what extent entities involved in the development, application, certification, etc of SPS-related private standards are aware of the SPS Committee's discussions. The information sessions with the participation of representatives of such entities were useful in bringing to their attention some of the concerns raised in the SPS Committee as well as in updating the Committee on latest developments.

12. Given the multitude and diverse nature of entities involved in private SPS standards such as retail firms, producers, certifiers and NGOs, Member governments may be best placed to communicate with such entities as necessary. Such communication could be achieved through meetings or other means and encourage harmonization, mutual recognition of standards by private standard holders, cost reduction in the areas of compliance and certification, and further transparency and consultation mechanisms. It would also help Members build an understanding of the extent and functions of SPS-related private standards. One limitation that has been identified is that for some developing countries, such meetings might encompass only producers and exporters facing private SPS standards in their export markets and not those setting and applying such standards.

**Action 5:** The SPS Committee should explore the possibility of working with the Codex, OIE and IPPC to support the development and/or dissemination of informative materials underlining the importance of international SPS standards.

13. The responses to the Secretariat's questionnaire revealed that many producers and traders are not aware of the differences between public and SPS-related private standards. In an effort to provide further clarity on this issue and promote the use of international standards, the SPS Committee could explore the possibility of working with the Codex, OIE and IPPC to support the development and/or dissemination of informative materials. Such materials would underlining the merits of science-based international standards, which, when adopted by Member governments and private schemes, serve to facilitate trade while ensuring safety. They would build on already existing materials.

14. A better global understanding could contribute to the further incorporation of these standards in public and private requirements and may also improve the ability of producers and exporters to negotiate with those setting private standards on the content of these standards.
World Trade Organization (WT/MIN(01)/17)

Ministerial Conference
Fourth Session
Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

Decision of 14 November 2001

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

   1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.
1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.

2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.

2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.

2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.

3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.
3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

3.4 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.

3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.

4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.

4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning
of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;

4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.

5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.

6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.

7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.

7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12 months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.

7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.


8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the
Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.

9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US $1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US $1000 based upon the most recent data from the World Bank.

10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.

10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing
Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.

10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US$ 1,000.

10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.

10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.

11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.
12. **Cross-cutting Issues**

12.1 The Committee on Trade and Development is instructed:

(i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;

(ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and

(iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")\(^1\) should be generalised, non-reciprocal and non-discriminatory.

13. **Outstanding Implementation Issues**\(^2\)

Agrees that outstanding implementation issues be addressed in accordance with paragraph 12 of the Ministerial Declaration (WT/MIN(01)/DEC/1).

14. **Final Provisions**

Requests the Director-General, consistent with paragraphs 38 to 43 of the Ministerial Declaration (WT/MIN(01)/DEC/1), to ensure that WTO technical assistance focuses, on a priority basis, on assisting developing countries to implement existing WTO obligations as well as on increasing their capacity to participate more effectively in future multilateral trade negotiations. In carrying out this mandate, the WTO Secretariat should cooperate more closely with international and regional intergovernmental organisations so as to increase efficiency and synergies and avoid duplication of programmes.

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\(^1\) BISD 26S/203.

\(^2\) A list of these issues is compiled in document Job(01)/152/Rev.1.
Committee on Sanitary and Phytosanitary Measures

CATALOGUE OF INSTRUMENTS AVAILABLE TO WTO MEMBERS TO MANAGE SPS ISSUES

1. At its meeting of 1-2 March 2018, the Committee adopted the following Catalogue of Instruments available to WTO Members to Manage SPS issues. It is based on a proposal initially submitted by Canada and Kenya in the discussions of the Fourth Review. The Catalogue is intended only as a reference document to help Members address and manage SPS issues. It aims to facilitate the task of officials working on SPS issues by identifying relevant legal provisions, Committee work, and some other resources available for particular SPS-related tasks or activities. Their inclusion in the Catalogue is not meant to suggest that these instruments constitute necessary or mandatory steps in the completion of a certain task or activity.

2. This Catalogue neither adds to nor detracts from the existing rights and obligations of Members under the SPS Agreement or any other WTO Agreement.
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| **Within the WTO SPS Agreement** | **Legal provisions of the SPS Agreement**
Annex B.3

"Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:

a. any sanitary or phytosanitary regulations adopted or proposed within its territory;
b. any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
c. risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
d. the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements."

**SPS Committee work**
According to Art. 7 and Annex B.3 of the SPS Agreement, WTO Members have to establish an Enquiry Point responsible for providing answers and documentation to all reasonable questions from interested Members.

The Committee has developed "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7)" ([G/SPS/7/Rev.3](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/7R3.pdf)). The Recommended Transparency Procedures include guidance on the handling of comments on notifications.

Contact information on SPS Enquiry Points and Notifications Authorities are available online from the SPS Information Management System ([SPSIMS: http://spsims.wto.org](http://spsims.wto.org)).

**Outside the WTO**
Codex contact points are available from [http://www.codexalimentarius.org/contact-links](http://www.codexalimentarius.org/contact-links).
IPPC contact points are available from [https://www.ippc.int/countries/contactpoints](https://www.ippc.int/countries/contactpoints).

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1 A "technical" revision of [G/SPS/7/Rev.3](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/7R3.pdf) is currently being undertaken and will be circulated as [G/SPS/7/Rev.4](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/7R4.pdf) in 2018.
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| **Comment on notifications** | Legal provisions of the SPS Agreement  
Annex B.5(d)  
"Members shall... (d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account."  

**SPS Committee work**  
According to Annex B.5(d) of the SPS Agreement, Members are required to allow reasonable time for other Members to make comments in writing.  

The Recommended Transparency Procedures state that a 60-day comment period should be provided with respect to regular notifications. |
| **Meet to discuss comments on notification** | Legal provisions of the SPS Agreement  
Annex B.5(d)  
"Members shall... (d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account."  

**SPS Committee work**  
According to Annex B.5(d) of the SPS Agreement, Members are required to discuss comments made on notifications upon request, and to take the comments and results of these comments into account. For additional guidance, see also the Recommended Transparency Procedures. |
| **Request to meet bilaterally on margins of the SPS Committee** | Request to meet with another Member regarding a concern with an SPS issue. This can be a formal meeting or something less formal.  

**Outside the WTO**  
Bilateral discussions prior to resorting to mediated settlement:  
A practice of many Members is to take advantage of being in Geneva for the WTO SPS Committee meeting to raise SPS market access issues with trading partners. |
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| Request recognition of equivalence of specific SPS measure or measures related to a certain product or category of products, or on a systems-wide basis | **Legal provisions of the SPS Agreement**  
Article 4  
"4.1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.  
4.2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures."  
**SPS Committee work**  
The Committee has developed guidelines to facilitate the application of Article 4 of the SPS Agreement: "Decision on the Implementation of Article 4 of the Agreement on the Application of SPS Measures (Equivalence)" ([G/SPS/19/Rev.2](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/19R2.pdf)).  
**Outside the WTO**  
IPPC standards, guidelines and recommendations are available from: [https://www.ippc.int/standards](https://www.ippc.int/standards).  
OIE standards, guidelines and recommendations are available from: [http://www.oie.int/international-standard-setting/overview](http://www.oie.int/international-standard-setting/overview). |
| Request recognition of pest- or disease-free areas and areas of low pest or disease prevalence | **Legal provisions of the SPS Agreement**  
Article 6  
"6.1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area — whether all of a country, part of a country, or all or parts of several countries — from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, inter alia, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.  
6.2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls." |
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| 6.3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures."

**SPS Committee work**

The Committee has developed guidelines to facilitate the application of Article 6 of the SPS Agreement: "Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of SPS Measures (Regionalization)" (G/SPS/48 [https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/48.pdf]). They include "Typical Administrative Steps in the Recognition Process".

**Outside the WTO**

IPPC standards, guidelines and recommendations are available from: https://www.ippc.int/standards.

OIE standards, guidelines and recommendations are available from: http://www.oie.int/international-standard-setting/overview.

| Request an explanation of the reasons for a sanitary or phytosanitary measure | **Legal provisions of the SPS Agreement**

**Article 5.8**

"5.8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure."

| Request technical assistance | **Legal provisions of the SPS Agreement**

**Article 9**

"9.1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

9.2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved."
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<td><strong>WTO technical assistance</strong>&lt;br&gt;For more information on technical assistance and training activities related to the SPS Agreement available from the WTO Secretariat, see: <a href="http://www.wto.org/sps/ta">http://www.wto.org/sps/ta</a>.</td>
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</tbody>
</table>
| Request Special and Differential Treatment | **Legal provisions of the SPS Agreement**<br>**Article 10.2**

"10.2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports."

**SPS Committee work**
The Committee has developed guidelines to facilitate the application of Article 10.1 of the SPS Agreement: "Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members" ([G/SPS/33/Rev.1](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/33R1.pdf)). They include procedures to be followed. |
| Request specified, time-limited exceptions in whole or in part from obligations under the SPS Agreement | **Legal provisions of the SPS Agreement**<br>**Article 10.3**

"10.3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs."

A process by which a Member can request facilitated discussions with another Member on specific SPS issues.

Paragraph 6 of the Working Procedures of the Committee (G/SPS/1 [https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf]) states: "With respect to any matter which has been raised under the Agreement, the Chairperson may, at the request of the Members directly concerned, assist them in dealing with the matter in question..."

Guidance on how to request facilitated ad hoc consultations or negotiations is found in "Procedure to Encourage and Facilitate the Resolution of Specific Sanitary or Phytosanitary Issues Among Members in Accordance with Article 12.2" ([G/SPS/61](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/61.pdf)). |
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<tr>
<td>Propose that a specific issue be considered under the regular Review of the Operation and Implementation of the SPS Agreement</td>
<td><strong>Legal provisions of the SPS Agreement</strong>&lt;br&gt;<strong>Article 12.7</strong>&lt;br&gt;&quot;12.7. 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, <em>inter alia</em>, to the experience gained in its implementation.&quot;</td>
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<tr>
<td>WTO SPS Committee agenda</td>
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<td>Tools available to Members</td>
<td>Description</td>
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<tr>
<td>Raise an issue under the &quot;Equivalence&quot; Agenda item of the WTO SPS Committee meeting</td>
<td>Members may request to include a specific item regarding information on a Member’s experience with equivalence on the WTO SPS Committee Agenda for an upcoming meeting. Working procedures of the WTO SPS Committee (G/SPS/1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf</a>]). The Committee has developed guidelines to facilitate the application of Article 4 of the SPS Agreement: &quot;Decision on the Implementation of Article 4 of the Agreement on the Application of SPS Measures (Equivalence)&quot; (G/SPS/19/Rev.2 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/19R2.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/19R2.pdf</a>]).</td>
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<tr>
<td>Raise an issue under the &quot;Special and Differential Treatment&quot; Agenda item of the WTO SPS Committee meeting</td>
<td>Members may request to include a specific item regarding information on a Member’s experience regarding special and differential treatment on the WTO SPS Committee Agenda for an upcoming meeting. Working procedures of the WTO SPS Committee (G/SPS/1 [<a href="https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf">https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SPS/1.pdf</a>]).</td>
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<tr>
<td>Within WTO system</td>
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<tr>
<td>Ask questions as part of the Trade Policy Review process</td>
<td>Each Member undergoes a trade policy review (the frequency of each country’s review varies according to its share of world trade). WTO Members are given the opportunity to review and ask comments to another Member on its trade policy. For more information on the WTO Trade Policy Review mechanism, see: <a href="http://www.wto.org/TPR">http://www.wto.org/TPR</a>.</td>
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<tr>
<td>Raise issues/ask questions as part of the WTO Accession process</td>
<td>As countries seek to accede to the WTO, Members have the opportunity to raise specific issues with the acceding countries, including issues related to the acceding country’s laws, regulations and requirements. For more information on the WTO accessions process, see: <a href="http://www.wto.org/accessions">http://www.wto.org/accessions</a>.</td>
</tr>
<tr>
<td>Explore raising the issue in other WTO Bodies</td>
<td>For example and as appropriate, the Committee on Import Licensing, Council on Trade in Goods, Committee on Trade Facilitation.</td>
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<td>Tools available to Members</td>
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| Request formal Dispute Settlement Consultations | **Legal provisions of Dispute Settlement Understanding**  
Article 4  
"4.1. Members affirm their resolve to strengthen and improve the effectiveness of the consultation procedures employed by Members.  
4.2. Each Member undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another Member concerning measures affecting the operation of any covered agreement taken within the territory of the former.³  
4.3. If a request for consultations is made pursuant to a covered agreement, the Member to which the request is made shall, unless otherwise mutually agreed, reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution. If the Member does not respond within 10 days after the date of receipt of the request, or does not enter into consultations within a period of no more than 30 days, or a period otherwise mutually agreed, after the date of receipt of the request, then the Member that requested the holding of consultations may proceed directly to request the establishment of a panel.  
4.4. All such requests for consultations shall be notified to the DSB and the relevant Councils and Committees by the Member which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.  
4.5. In the course of consultations in accordance with the provisions of a covered agreement, before resorting to further action under this Understanding, Members should attempt to obtain satisfactory adjustment of the matter.  
4.6. Consultations shall be confidential, and without prejudice to the rights of any Member in any further proceedings.  
4.7. If the consultations fail to settle a dispute within 60 days after the date of receipt of the request for consultations, the complaining party may request the establishment of a panel. The complaining party may request a panel during the 60-day period if the consulting parties jointly consider that consultations have failed to settle the dispute.  
4.8. In cases of urgency, including those which concern perishable goods, Members shall enter into consultations within a period of no more than 10 days after the date of receipt of the request. If the consultations have failed to settle the dispute within a period of 20 days after the date of receipt of the request, the complaining party may request the establishment of a panel.  
4.9. In cases of urgency, including those which concern perishable goods, the parties to the dispute, panels and the Appellate Body shall make every effort to accelerate the proceedings to the greatest extent possible.  
4.10. During consultations Members should give special attention to the particular problems and interests of developing country Members. |
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<th>Tools available to Members</th>
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<td>4.11. Whenever a Member other than the consulting Members considers that it has a substantial trade interest in consultations being held pursuant to paragraph 1 of Article XXII of GATT 1994, paragraph 1 of Article XXII of GATS, or the corresponding provisions in other covered agreements, such Member may notify the consulting Members and the DSB, within 10 days after the date of the circulation of the request for consultations under said Article, of its desire to be joined in the consultations. Such Member shall be joined in the consultations, provided that the Member to which the request for consultations was addressed agrees that the claim of substantial interest is well-founded. In that event they shall so inform the DSB. If the request to be joined in the consultations is not accepted, the applicant Member shall be free to request consultations under paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATT 1994, paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATS, or the corresponding provisions in other covered agreements.</td>
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**Request formal “Good Offices, Conciliation and Mediation”**

**Legal provisions of Dispute Settlement Understanding**

Article 5

"5.1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree."

**Request the establishment of a dispute settlement panel**

**Legal provisions of Dispute Settlement Understanding**

Article 6

"6.1. If the complaining party so requests, a panel shall be established at the latest at the DSB meeting following that at which the request first appears as an item on the DSB's agenda, unless at that meeting the DSB decides by consensus not to establish a panel.5

6.2. The request for the establishment of a panel shall be made in writing. It shall indicate whether consultations were held, identify the specific measures at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly..."
<table>
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<th>Tools available to Members</th>
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<tr>
<td><strong>Beyond WTO System</strong></td>
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<tr>
<td>IPPC dispute settlement procedures</td>
<td>In cases where a phytosanitary dispute arises, contracting parties are encouraged to consult with the IPPC secretariat concerning the range of dispute settlement procedures that are available and what might be appropriate for the dispute in question. There are three main types of procedures: 1) informal consultation, formal consultation, good offices, mediation or arbitrations; 2) formal non-binding conciliation process; and 3) a dispute settlement procedure (may produce a binding agreement for the parties to the agreement).</td>
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<td><strong>Note:</strong> the IPPC Dispute Settlement procedure is currently under review.</td>
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<td><strong>Legal provisions of the SPS Agreement</strong></td>
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<td>Article 11.3</td>
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<td>&quot;11.3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.&quot;</td>
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<td><strong>Outside the WTO</strong></td>
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<tr>
<td><strong>OIE informal mediation procedure</strong></td>
<td>In the case where an OIE member considers that another OIE member does not comply with OIE standards, both parties can agree to request the voluntary, informal OIE mediation procedure which focuses on scientific and technical aspects to seek to find a mutually agreeable solution.</td>
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<tr>
<td></td>
<td><strong>Legal provisions of the SPS Agreement</strong></td>
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<td><strong>Outside the WTO</strong></td>
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<td>Chapter 5.3.8 of the OIE Terrestrial Animal Health Code provides details on the OIE informal procedure for dispute mediation: <a href="http://www.oie.int/international-standard-setting/terrestrial-code/access-online">http://www.oie.int/international-standard-setting/terrestrial-code/access-online</a>.</td>
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<td>Tools available to Members</td>
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<tr>
<td>Meet on issues bilaterally</td>
<td>At any time, a Member may request to hold a bilateral meeting or discussion regarding an SPS issue. Alternatively, these discussions could take place on the margins of regularly scheduled meetings.</td>
</tr>
<tr>
<td><strong>Outside the WTO</strong></td>
<td>Not a concept included in the WTO framework, however, can be a &quot;best practice&quot; when managing SPS issues.</td>
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</table>

Links to the major decisions and reference documents under the Sanitary and Phytosanitary Measures Committee can be found online at: [http://www.wto.org/english/tratop_e/sps_e/decisions06_e.htm](http://www.wto.org/english/tratop_e/sps_e/decisions06_e.htm).

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1 All references to websites are current as of March 2018.
Committee on Sanitary and Phytosanitary Measures

REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT

REPORT ADOPTED BY THE COMMITTEE ON 26 JUNE 2020 – PART A

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. 1

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. 2 The Second Review of the Agreement was completed in July 2005, 3 the Third Review in May 2010, 4 and the Fourth Review in July 2017. 5 At its March 2018 meeting, the Committee adopted a procedure and timetable to undertake the Fifth Review of the Agreement. 6 A draft Background Document prepared by the Secretariat was circulated in May 2018; 7 this Background Document was the basis for the preparation of the factual part of this Report.

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 Following which, the Secretariat prepared another revision, 10 taking into account inputs received from Members, 11 for discussion at the March 2020 SPS Committee meeting. However, this meeting was subsequently cancelled. 12 On the basis of Members' submitted inputs in April 2020, 13 revised draft recommendations were prepared. 14 Members were invited to discuss these recommendations and the revised Report 15 in the informal virtual SPS Committee consultations.

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1 G/SPS/12.
2 WT/MIN(01)/17.
3 G/SPS/36.
4 G/SPS/53.
5 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/GEN/1612.
8 G/SPS/W/313 and G/SPS/W/313/Rev.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 G/SPS/W/313/Rev.2 and G/SPS/W/313/Rev.2/Corr.1. 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/313/Rev.1.
12 A revised compilation of Members' comments is available in G/SPS/W/324/Rev.1, as well as individual Members' comments in G/SPS/W/323, G/SPS/W/326 and G/SPS/W/327.
13 G/SPS/W/325.
14 G/SPS/W/313/Rev.2 and G/SPS/W/313/Rev.2/Add.1.
which were held on 25 May. The Secretariat prepared a subsequent revision of the Report\textsuperscript{16} for discussion in the June 2020 SPS Committee meeting, taking into consideration the comments from Members in the May 2020 virtual consultations, and Members' comments submitted by the deadline of 2 June 2020.\textsuperscript{17}

At its June 2020 regular meeting, the Committee adopted, on an \textit{ad referendum} basis, the Report of the Fifth Review of the Operation and Implementation of the SPS Agreement. No objections to the adoption of the Report, as agreed at the June 2020 meeting, were received by the deadline of 31 July 2020.

The Report of the Fifth Review is comprised of two sections: (i) \textbf{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 topics. In addition, this section contains information on the areas identified for further work by the SPS Committee, including any recommendations; and (ii) \textbf{Part B}: Factual report.\textsuperscript{18}

\textsuperscript{16} G/SPS/W/313/Rev.3 and G/SPS/W/313/Rev.3/Add.1.

\textsuperscript{17} A revised compilation of Members' comments is available in G/SPS/W/324/Rev.1.

\textsuperscript{18} Part B is contained in an addendum to the Report of the Review, G/SPS/64/Add.1.
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PART B - FACTUAL REPORT (Part B is contained in an addendum to this Report)

ANNEX I: LIST OF TOPICS AND PROPOSALS
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, OIE and IPPC with respect to specific trade concerns; 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. Annex I provides a list of the topics and proposals submitted under the Fifth Review.

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. 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 Review contained valuable information on relevant Committee discussions.

2.4. Subsequently Brazil introduced a more detailed proposal 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...
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, i.e. Codex, OIE and IPPC, also referred to as the “Three Sisters”), 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.25

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. The Committee agreed to hold this workshop in June 2020. Due to the COVID-19 pandemic, the workshop was postponed until further notice.

25 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 scientific evidence emerges and international standards, guidelines, and recommendations are developed and updated by Codex, OIE, or 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 Codex, OIE and IPPC to share guidance documents, international standards, guidelines and recommendations pertaining to the consideration of scientific uncertainty and/or insufficiency of scientific evidence in risk analysis.

- The Committee had agreed to hold a Workshop on Risk Assessment, Risk Management and Risk Communication in June 2020, which had to be postponed due to the COVID-19 pandemic. The Committee agrees to reschedule this Workshop as soon as the COVID-19 situation allows.

### 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.\(^{26}\) 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.\(^{27}\) 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.\(^{28}\)

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

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\(^{26}\) A summary report of this workshop is available in document G/SPS/B/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](https://www.wto.org/english/tratop_e/sps_e/workshop910718_e.htm).

\(^{27}\) G/SPS/W/310.

\(^{28}\) G/SPS/GEN/1704.
well as ISSBs. In addition, some Members suggested having a separate section in the thematic session to deal specifically with undue delays.

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 2019.29 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.30 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. Canada subsequently submitted another proposal to initiate the way forward for the work of the working group on approval procedures, by way of a proposed process which outlines: the title of the working group; its functions and reporting approach to the Committee; participation and stewards; description of work; language of the working group; and proposed timelines and next steps.31

29 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.
30 G/SPS/W/321.
31 G/SPS/W/328.
3.12. **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 a working group open to the participation of all Members and Observers to continue to examine the topic of approval procedures. The working group could explore the:
  
  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. 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, 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. Canada proposed holding a workshop or a thematic session on equivalence, and suggested including topics such as systems approaches. 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, 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 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 the 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.38

4.7. The second part of the Thematic Session was held in March 2019.39 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 2019 Workshop on Transparency and Coordination,40 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.

38 G/SPS/GEN/1655.
39 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.
40 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.
Recommendations:

- Members are encouraged to notify any agreement reached on the recognition of equivalence.

- 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.

- SPS Committee representatives are encouraged to coordinate with their government’s Codex, OIE, and IPPC representatives and experts to highlight the importance of understanding trade impacts during discussions in Codex, OIE and IPPC that bear 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. 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. The Thematic Session on Fall Armyworm was held on 19 March 2019, 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.

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.

5.7. Subsequently, Brazil, Kenya, Paraguay and the United States submitted a new proposal 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 fall armyworm 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 fall armyworm 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

45 G/SPS/W/317.
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.\(^{46}\) 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 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 to fight fall armyworm that help to mitigate its effect on trade while safeguarding human, animal and plant life or health and accounting for the specific needs of smallholder farms.

- 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.**

- **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 and, where appropriate, in the working group on approval procedures referred to in paragraph 3.9 above.**

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.\(^{47}\) 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.\(^{48}\)

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46 Paragraph 4.3 of G/SPS/W/318/Rev.1.
47 G/SPS/W/297.
48 Information on this workshop is available at: https://www.wto.org/english/news_e/news11_e/spi_17oct11_e.htm.
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, inviting Members to submit comments.

6.3. The Workshop on Transparency and Coordination was held in July 2019, 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.

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 that are 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, 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. 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.52

7.4. The Secretariat circulated a draft programme for the workshop,53 developed in coordination with Brazil and TBT colleagues. The draft programme took into account Brazil's proposals in the SPS and TBT Committees.54 Members were requested to submit comments and suggest speakers, and Brazil submitted further suggestions.55

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 2019,56 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,57 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

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52 G/SPS/GEN/1655.
53 G/SPS/W/300.
54 JOB/TBT/283.
55 G/SPS/W/312.
56 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.
57 G/SPS/W/300.
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.\(^{58}\)

7.13. **Recommendations:**

- Members are encouraged to clearly indicate in their SPS Committee notifications when a measure has been notified to another Committee.\(^{59}\) Members should include this information under the point of the notification format titled “Other relevant documents and language(s) in which these are available”.

8 **MAXIMUM RESIDUE LIMITS (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.\(^{60}\) 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 specific trade concerns (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,\(^{61}\) the United States explained how Members could submit inputs to the standard-setting

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\(^{58}\) Paragraph 6.4 of G/SPS/W/318/Rev.1.

\(^{59}\) 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.

\(^{60}\) G/SPS/W/292/Rev.4. Previous revisions of this proposal were discussed prior to the launch of the Fifth Review.

\(^{61}\) Paragraph 7.3 of G/SPS/W/318/Rev.1.
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 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 no Codex standards exist, 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.\(^{62}\) The European Union proposed Committee actions to build on the thematic sessions on regionalization,\(^{63}\) 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.\(^{64}\)

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 to Further the Practical Implementation of Article 6\(^{65}\); 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

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\(^{62}\) G/SPS/W/301.

\(^{63}\) G/SPS/W/298.

\(^{64}\) G/SPS/W/303.

\(^{65}\) G/SPS/48.
preclude undertaking a risk assessment. The European Union clarified that reviewing the Guidelines to Further the Practical Implementation of Article 6 (G/SPS/48) could help identify obstacles to their practical implementation, and a possible need for clarification.

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

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.

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. The proponents indicated that the paper included a synthesis of all ideas presented 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, IPPC and OIE 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 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 national plant protection organizations (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.

73 In the OIE context, regionalization is referred to as zoning and compartmentalization.
10 ROLE OF CODEX, OIE AND IPPC WITH RESPECT TO 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. Recalling a 2009 Workshop on the Relationship between the SPS Committee and the "Three Sisters" (i.e. Codex, OIE and IPPC, or ISSBs), 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.

10.2. The United States referred to its comments on the proposal which invited Members to review the Committee's discussions in 2012 on the role of observers, 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 subject 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. 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, 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. 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.

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74 G/SPS/W/304.
75 G/SPS/GEN/1655.
76 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).
77 G/SPS/GEN/1157.
78 G/SPS/W/267.
79 G/SPS/W/304/Add.1.
80 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).
10.7. Codex, OIE and IPPC provided a joint response 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.

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:**

- Codex, OIE and IPPC are invited to provide factual information on their standards, guidelines and recommendations in the SPS Committee meetings.

- The Committee encourages SPS Committee representatives to consult with their government's Codex, OIE and IPPC experts for advice when a specific trade concern arises regarding a Codex, OIE or IPPC standard, guideline or recommendation.

- The Committee may continue to consider the role of Codex, OIE and IPPC with respect to 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. 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. 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.
11.3. Belize introduced its new proposal to hold a thematic session on voluntary third-party assurance programmes in March 2020,\textsuperscript{85,86} 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 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 Belize subsequently presented a draft programme for the thematic session,\textsuperscript{87} highlighting the overall objective and the structure of the proposed sessions.

11.7. 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 would 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 would 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.\textsuperscript{88}

11.8. Due to the COVID-19 pandemic, the March 2020 SPS Committee meeting was cancelled, and the Thematic Session on Voluntary Third-Party Assurance Programmes was postponed until further notice.\textsuperscript{89}

11.9. \textbf{Recommendation:}

- The Committee had agreed to hold a Thematic Session on Voluntary Third-Party Assurance in March 2020, which had to be postponed due to the COVID-19 pandemic. The Committee agrees to reschedule this Thematic Session as soon as the COVID-19 situation allows.

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\textsuperscript{85} 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.

\textsuperscript{86} G/SPS/W/316.

\textsuperscript{87} G/SPS/W/320.

\textsuperscript{88} G/SPS/GEN/1754/Rev.1.

### ANNEX I: LIST OF TOPICS AND PROPOSALS

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The 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 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. The present document contains Part B of the Report; Part A can be found in document G/SPS/64.

This factual part reflects the work of the SPS Committee from January 2014 until December 2019, unless stated otherwise.\(^1\) It is based on the draft Background Document initially circulated by the Secretariat on 4 May 2018.\(^2\)

Information presented in this document, particularly in sections 8 and 19, has been retrieved from the SPS Information Management System (SPS IMS: [http://spsims.wto.org](http://spsims.wto.org)) and from Documents on Line ([https://docs.wto.org/](https://docs.wto.org/)). The categories of level of development and the geographical groupings of Members are based on the WTO IDB reference database.\(^3\)

Appendices A to D provide a list of documents from January 2014 to December 2019 and are accessible via the following weblink: [https://www.wto.org/english/tratop_e/sps_e/tables_e/G_SPS_64_Appendix_A-D.xlsx](https://www.wto.org/english/tratop_e/sps_e/tables_e/G_SPS_64_Appendix_A-D.xlsx).

Specifically, Appendix A provides a list of Secretariat background documents and other meeting documents. Appendix B provides a list of documents submitted by Members that are relevant to the various issues raised in this factual section of the Report. Appendix C similarly provides a list of documents submitted by observer organizations. Appendix D provides information about SPS-related dispute settlement activities.

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\(^1\) This document includes information on technical assistance provided by Members in GEN documents submitted up to March 2020, for technical assistance undertaken within the period of Review (i.e. 2014-2019).

\(^2\) G/SPS/GEN/1612.

\(^3\) The tariff online facility, which provides access to the WTO’s Integrated Data Base (IDB) is available at: [https://tao.wto.org](https://tao.wto.org).
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PART B – FACTUAL REPORT

1 CATALOGUE OF INSTRUMENTS

1.1. In the context of the Fourth Review, Canada proposed that the Committee develop a "Catalogue of Instruments Available to the WTO Members to manage SPS issues"\(^4\), noting that the timely use of these tools could help Members avoid, manage or escalate issues. The proposed Catalogue would include all mechanisms relevant to the SPS Agreement framework; for instance, the right to provide comments on notifications and to discuss them, the targeted or strategic use of the STC agenda item, and the use of the IPPC or OIE dispute settlement procedures.

1.2. Many Members welcomed the proposal and highlighted the usefulness of developing a compendium of all the actions available. It was proposed that the Secretariat collaborate with Canada on preparing a draft of the Catalogue, for subsequent comments by other Members. The draft Catalogue, jointly submitted by Canada and Kenya, was circulated as G/SPS/W/279, on 18 June 2014. The document was discussed at Committee meetings in 2014, and the proponents revised it in response to comments and suggestions from Members.

1.3. In March 2015, Canada presented the second revision\(^5\) of its joint proposal with Kenya. Some Members requested clarification about the legal status of the document, and the Secretariat explained that it would become one of the reference documents adopted by the Committee. At the request of the Chairperson, the Secretariat prepared language for a draft paragraph clarifying the legal status of the document, as adapted from the latest decision adopted by the Committee, which was the Procedure to Encourage and Facilitate the Resolution of Specific Sanitary or Phytosanitary Issues among Members in Accordance with Article 12.2 (G/SPS/61).\(^6\) At Committee meetings in 2015-2017, Members continued discussing this disclaimer language, based on further proposals from Members and from Chairpersons.

1.4. In 2017, many Members indicated that they could accept a "soft" disclaimer, although one Member had preferred a more far-reaching version. The Committee decided to try a new approach, combining an introductory paragraph clarifying the intended use of the Catalogue with a soft disclaimer.\(^7\) Members were asked to consult with their capitals. In November 2017, the Chairperson noted that one Member had submitted comments indicating that systemic concerns regarding the inclusion of disclaimers in Committee documents persisted. One Member suggested the organization of an exchange with legal experts from the Secretariat to explain the interpretation of Committee decisions and disclaimers. This suggestion was supported by one of the authors of the document, who also thought it could be helpful.\(^8\)

1.5. The Committee adopted the Catalogue of Instruments to Manage SPS Issues in the March 2018 SPS Committee meeting. Members agreed to include disclaimer language proposed by the Chairperson in July 2017, which combined an introductory paragraph describing the intended uses of the Catalogue with a "soft" disclaimer. Consensus became possible after Brazil and Mexico, who had previously raised objections to the inclusion of a disclaimer, accepted the Chairperson's proposed disclaimer, in the spirit of advancing the work of the Committee. Both Members requested that their systemic concerns regarding the use of disclaimers in Committee documents be reflected in the summary report of the meeting. The document was subsequently circulated as G/SPS/63, with the introductory language in RD/SPS/16.

1.6. Within the context of the Fifth Review discussions on South Africa’s proposal regarding the role of the Codex, OIE and IPPC in addressing STCs,\(^9\) Canada reminded Members of the relevant

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\(^4\) G/SPS/W/271.
\(^5\) G/SPS/W/279/Rev.2.
\(^6\) The language circulated by the Secretariat was: “This catalogue of instruments is intended as a reference document to help Members address and manage SPS issues. It is without prejudice to the rights and obligations of Members under the SPS Agreement or any other WTO agreement and shall not constitute a legally binding agreement.”
\(^7\) The new language, as well as other proposals, were circulated in room document RD/SPS/16.
\(^8\) Prior to discussions in the formal meeting of the March 2018 SPS Committee, a legal expert from the Secretariat briefed the Committee on the use of Committee decisions with or without disclaimers in dispute settlement.
\(^9\) G/SPS/W/304 and G/SPS/W/304/Add.1.
information available in the Catalogue of Instruments G/SPS/63. Members also discussed ways to encourage the use of this document, such as including a reference to G/SPS/63 in the airgram.¹⁰

2 CONSISTENCY (ARTICLE 5.5)

2.1. Article 5.5 required the Committee to develop guidelines to further the practical implementation of that provision. The Committee adopted such guidelines (G/SPS/15) in July 2000, and subsequently agreed to review them as part of the periodic review of the operation and implementation of the SPS Agreement. To date no Member has suggested a need to modify these guidelines. Although there is no standing agenda item regarding Article 5.5, there is an opportunity for Members to provide information regarding their experiences in this regard under the Agenda Item "Information from Members on Relevant Activities".

3 CONTROL, INSPECTION AND APPROVAL PROCEDURES (ARTICLE 8 AND ANNEX C)

3.1. In July 2018, a Thematic Workshop on Control, Inspection and Approval Procedures (Annex C)¹¹ was held. The WTO Global Trust Fund had sponsored 32 participants selected from developing and least-developed countries, and the WTO funded the participation of four external speakers. The main objective of the workshop was to discuss and share experiences on developments, challenges and practices in implementing Article 8 and Annex C of the SPS Agreement. The workshop explored the provisions of, and dispute settlement reports regarding, Article 8 and Annex C of the SPS Agreement, and explained the relationship between the Trade Facilitation and SPS Agreements. Representatives from Codex, OIE and IPPC presented an overview of relevant work in the "Three Sisters". Presentations by the World Bank, the STDF, and COMESA had depicted experiences on the ground, given estimates on SPS-related trade transaction costs, and identified win-win opportunities to facilitate safe trade, such as interagency collaboration and increased transparency. The European Union, the United States, Canada, China, Turkey, Zambia and Belize presented their domestic experiences.

3.2. E-certification was also addressed in a dedicated session of the workshop. First, the IPPC presented its ePhyto project, initially funded by the STDF, to facilitate the electronic exchange of phytosanitary certificates through the creation of a web-based global system. Then UNCTAD presented Rwanda’s case in establishing an e-Portal for facilitating the issuance of SPS certificates. Finally, the OIE and Codex provided an update on their nascent work in the field of electronic certification, and Brazil, the European Union and the United States had shared their national experiences in implementing e-certification systems. The workshop ended with a roundtable, in which representatives from the World Bank, UNCTAD, the International Trade Centre, the World Customs Organization (WCO), and the WTO’s Trade Facilitation Agreement Facility had discussed their ongoing capacity building programmes. The Secretariat was requested to update the document drafted in 2014 on the relationship between the Trade Facilitation and SPS Agreements (RD/SPS/3/Rev.1).¹²

3.3. In 2018, the IPPC announced that the ePhyto Hub was functioning and that the IPPCGeneric ePhyto National System (GeNS) was being improved. The entire ePhyto Solution would be functioning by early 2019. Besides, the IPPC referred to an agreement signed with WCO to promote cooperation on border controls and single window in the areas of ePhyto, eCommerce and sea containers. The United States expressed interest in and support for the ePhyto project on electronic phytosanitary certification, highlighted some potential benefits, explained its financial and technical contributions to the project and encouraged IPPC members to support the ePhyto project. Ecuador was one of the pilot countries; Nigeria queried whether African countries had been involved in the pilot project. The IPPC informed that regional workshops on ePhyto would be held in 2018 in Latin America, as well as in Africa and in the Near East region.

¹⁰ For the November 2019 Committee meeting, both the reminder and the convening airgrams (WTO/AIR/SPS/29 and WTO/AIR/SPS/30) include a paragraph encouraging Members to consult the Catalogue of Instruments (G/SPS/63), which lists resources available to Members to manage SPS issues.

¹¹ The programme is available in document G/SPS/GEN/1613/Rev.2 and the report was circulated as G/SPS/R/91. Presentations from the thematic session are available at: https://www.wto.org/english/tratop_e/sps_e/workshop910718_e.htm.

3.4. In November 2019, a Thematic Session on Approval Procedures\textsuperscript{13} was held, as agreed by the SPS Committee in March 2019, on the basis of a proposal submitted by Canada. 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 related to approval procedures, including undue delays, transparency and information requirements. The session focused on pre-market approvals, approval of biotech products, domestic regulations and work of international standard-setting bodies, among other topics. First, the Secretariat provided a comprehensive overview of Article 8 and Annex C, and relevant WTO disputes, underlining the importance of approval procedures by looking at an estimated number of related STCs and examples of discussions in the SPS Committee. In Session 2, Codex presented on relevant guidance on import and export requirements including safety assessments of food derived from biotechnology.

3.5. Several speakers shared experiences as importing and exporting Members in relation to approval procedures, followed by a discussion on costs and challenges related to trade and innovation caused by asynchronous approval processes globally. An interesting overview of the linkages between the WTO Trade Facilitation Agreement and the disciplines on approval procedures was also provided. Some key takeaways included the need for increased cooperation and capacity building for strengthening the implementation of cost-effective approval procedures. Finally, a roundtable discussion concluded the thematic session by posing overarching questions to stimulate an exchange of ideas on possible ways to address some of the challenges identified, and explore possible future work.

3.6. In 2019, the Committee also discussed a proposal for the Committee to continue its work on approval procedures through the establishment of a working group open to the participation of all Members and Observers.\textsuperscript{14}

3.7. Also in 2019, the IPPC referred to its work on the Phytosanitary Capacity Evaluation (PCE) tool, and updated Members on the completion of its work on ePhyto, with the support of STDF, as well as the Generic ePhyto National System (GeNS).

4 COOPERATION WITH THE CODEX, OIE AND IPPC

4.1. During the SPS Committee meetings, the standard-setting observer organizations provide relevant information on any work related to the SPS Agreement under the agenda item on "Information Sharing". Relevant documents are listed in Appendix C.

4.2. In addition, the IPPC urged Members in 2018 to support Finland’s proposal to declare 2020 as the International Year of Plant Health (IYPH) at the UN General Assembly in September 2018. The European Union reiterated its support and urged Members to support the proposal. The IPPC looked forward to the endorsement of the IPPC Strategic Framework for 2020-2030, before its official adoption at the Ministerial Commission meeting to be held in the 2020 IYPH. In 2019, the UN General Assembly adopted the 2020 IYPH. The European Union stressed the importance of the IYPH 2020 and Global Plant Health Conference. During the Thematic Session on Fall Armyworm,\textsuperscript{15} suggestions were made to build on the exchanges as a contribution to IPPC’s 2020 IYPH.

4.3. Codex, OIE and IPPC also participated in various thematic sessions and workshops held during the Review period.

5 DISPUTE SETTLEMENT

5.1. Article 11 of the SPS Agreement indicates that the Dispute Settlement Understanding applies to SPS disputes, and provides for the consultation of experts when a dispute involves scientific or technical issues. As of December 2019, 593 disputes had formally been raised under the WTO’s dispute settlement system. Of these, 49 alleged violation of the SPS Agreement, and the SPS Agreement was relevant also in two other disputes. 28 resulted in the establishment of a dispute

\textsuperscript{13} The programme is available in document G/SPS/GEN/1704/Rev.1, based on the proposal submitted by Canada in document G/SPS/W/310. The presentations, and webcast of the thematic session, are available at: https://www.wto.org/english/tratop_e/spse_workshop05112019_e.htm.

\textsuperscript{14} G/SPS/W/321 and G/SPS/W/328. See the section on control, inspection and approval procedures (Annex C) in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposal.

\textsuperscript{15} See section 12.2 of this Report for additional information on the Thematic Session on Fall Armyworm, and for more general discussions on fall armyworm in the SPS Committee.
settlement panel. These panels were established to look at 19 different SPS issues, listed below. Subsequent to the Fourth Review, action has occurred in DS506, DS524, DS525, DS532, DS540, DS589 and in the last four disputes in the following list, as further detailed in Appendix D:\textsuperscript{16}

1. Canada and the United States' complaint against Australia's measures affecting the importation of salmon (DS18 and DS21);
2. Canada and the United States' complaint against the European Communities' measures concerning meat and meat products (ban on meat treated with growth-promoting hormones, DS26 and DS48);
3. The United States' complaint against Japan's measures affecting agricultural products (requirement to test different fruit varieties with regard to treatment efficacy, DS76);
4. Ecuador's complaint against Turkey's import procedures for fresh fruit (DS237);
5. The United States' complaint against Japan's measures affecting the importation of apples (restrictions due to fire blight concerns, DS245);
6. The Philippines' complaint against Australia's measures affecting the importation of fresh fruit and vegetables (DS270);
7. The European Communities' complaint against Australia's quarantine procedures (DS287);
8. Argentina, Canada and the United States' complaint against EC measures affecting the approval and marketing of biotech products (DS291-293);
9. The European Communities' complaint against Canada and the United States regarding their continued suspension of obligations relating to the EC-Hormones dispute (DS320);
10. New Zealand's complaint against Australia's measures affecting the importation of apples (restrictions due to concerns related to fire blight and two other plant pests, DS367);
11. The United States' complaint against the European Communities' measures affecting poultry meat and poultry meat products (DS389);
12. Canada's complaint against Korea's restrictions on bovine meat and meat products (mutually agreed solution notified, DS391);
13. China's complaint against the United States' measures affecting imports of poultry (DS392);
14. The United States' complaint against India's measures concerning the importation of certain agricultural products (due to concerns about avian influenza; compliance panel proceedings on-going, DS430);
15. Argentina's complaint against the United States' measures affecting the importation of animals, meat and other animal products (due to concerns about foot-and-mouth disease, DS447);
16. The European Union's complaint against Russian measures affecting the importation of live pigs, pork, pork products and certain other commodities (due to concerns about African Swine Fever, compliance proceedings on-going, DS475);
17. Brazil's complaint against certain Indonesian measures on the importation of chicken meat and chicken products (DS484); and
18. Japan's complaint against Korea's import bans, testing and certification requirements for radionuclides (DS495).
19. Mexico's complaint against Costa Rica's measures concerning the importation of fresh avocados (DS524).

**6 EQUIVALENCE (ARTICLE 4)**

6.1. The Committee adopted an initial decision regarding the implementation of Article 4 on equivalence in October 2001. This initial decision included a commitment to develop a specific work programme to further the implementation of Article 4, which was concluded by the adoption of the\textsuperscript{16} Please note that in four disputes, the panels (and the Appellate Body) made findings principally under the TBT Agreement. These cases concerned Canada's complaint against the European Communities' ban on asbestos and products containing asbestos (DS135), Canada and Mexico's complaint against the United States' country of origin (COOL) labelling requirements (DS384 and DS386), and Indonesia's complaint against the United States' ban on clove cigarettes (DS406).
current version of the equivalence guidelines in July 2004\textsuperscript{17} and the agreement that equivalence would be a standing agenda item for the regular meetings of the Committee.

6.2. Under this agenda item, in 2015, Codex informed Members about its new work on guidance for the monitoring of the performance of national food control systems. Codex noted that the product of this work would not replace the equivalence provisions of the SPS Agreement. The final product would be available in about two to three years to improve the functioning of national food control systems.\textsuperscript{18}

6.3. Also in 2015, Senegal shared its experience in equivalence of procedures for peanut seed exports to China, based on the agreement on SPS requirements for peanut exports.\textsuperscript{19} Senegal thanked China, the African Union and SPS standards organizations for supporting this equivalence initiative. China noted that it considered this equivalence agreement with Senegal to be a good example of constructive bilateral cooperation. In 2016, Senegal reported that its exports were expanding to other markets such as Indonesia, Malaysia and Viet Nam, and confirmed to its new trade partners that the same procedures were in place to achieve an appropriate SPS protection level with regard to groundnut production in Senegal. Senegal also thanked China for the cooperation and the smooth implementation of their bilateral agreement which was now in its second year.

6.4. Also in 2016, Madagascar informed Members about the equivalence arrangements in place with regard to fishery products, specifically noting that the regulatory measures applied by its competent authority (Autorité Sanitaire Halieutique) to products intended for the European market had been recognized as equivalent to those provided in the European sanitary regulations. In addition, the competent Chinese veterinary authority had also recognized measures applied by the competent authority as equivalent to their measures and that a Memorandum of Understanding had been signed with China in 2014 that governed shrimp exports to the Chinese market. China thanked both Madagascar and Senegal for their particular comments on cooperation on SPS requirements regarding their exports of groundnuts and shrimp to China.

6.5. The Secretariat reminded Members that the Committee’s decision on equivalence, laid out in G/SPS/19/Rev.2, encouraged Members to notify the recognition of equivalence. The Secretariat noted that a specific notification format for the recognition of equivalence existed and encouraged Members to use it. The Secretariat also highlighted that the importing country recognizing the equivalence of a measure, or an aspect thereof, should be submitting the notification.\textsuperscript{20}

6.6. In 2017, Madagascar announced that in December 2016, the South African Plant Protection Organization had recognized all phytosanitary measures taken by the Madagascar Plant Protection Organization as equivalent. Madagascar acknowledged that the effort to bring its measures into conformity had improved the access of Malagasy fresh lychees to the South African market.

6.7. In 2018 and 2019, the Committee discussed several proposals on equivalence that were submitted under the Fifth Review.\textsuperscript{21} In addition, in response to one of those proposals, the Committee agreed in July 2018 to hold a two-part Thematic Session on Equivalence in October 2018 and in March 2019.

6.8. In October 2018, the first part of the Thematic Session on Equivalence\textsuperscript{22} was held. The Secretariat developed a programme for the workshop based on the proposal by Canada and inputs from Members. In this first part, the Secretariat provided an overview of the provisions of the SPS Agreement on equivalence (Article 4), of G/SPS/19/Rev.2, and of related dispute settlement reports. The thematic session included a presentation from the Secretariat on equivalence from a TBT perspective. Representatives of Codex, OIE and IPPC discussed the concept of equivalence in their respective areas. Discussions covered the need to ensure the consistency of the work being undertaken by the standard-setting bodies with the WTO Agreements; the challenges of having a

\textsuperscript{17} G/SPS/19/Rev.2.
\textsuperscript{18} The Guidelines CXG 91-2017, Principles and guidelines for monitoring the performance of national food control systems, were adopted in 2017.
\textsuperscript{19} G/SPS/GEN/1461 (and corrigendum).
\textsuperscript{20} In 2019, five new notifications on equivalence were submitted by the United States using the corresponding notification template.
\textsuperscript{21} G/SPS/W/299, G/SPS/W/301 and G/SPS/W/302/Rev.1. See the section on equivalence in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposals and the subsequent discussions.
\textsuperscript{22} The programme is available in document G/SPS/GEN/1640/Rev.1. Presentations from the thematic session are also available at: https://www.wto.org/english/tratop_e/sps_e/workshop301018_e.htm.
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.

6.9. In March 2019, the second part of the Thematic Session on Equivalence\(^{23}\), focusing on Members’ experiences with the implementation of equivalence, was held. Members presented experiences in the implementation of equivalence to specific SPS measures or groups of SPS measures. First, the United States, China, Canada and Peru shared their approaches to equivalence in several areas. Secondly, New Zealand, Canada and Australia focused on systems-based equivalence. Finally, speakers from COMESA, Imperial College London and Peru explored other approaches to equivalence. During the session, the principles of transparency, engagement and mutual trust were highlighted as prerequisites for the effective implementation of equivalence.

6.10. In 2019, Senegal informed the Committee of the signing of a bilateral phytosanitary agreement granting authorization for groundnut access to Malaysia, noting that this was a good example of recognition of their sanitary and phytosanitary inspection system by a trading partner.

6.11. In 2019, five new notifications on equivalence were submitted by the United States using the corresponding notification template.

6.12. Also in 2019, a joint proposal submitted by Brazil, Kenya, Paraguay and the United States\(^{24}\) on enabling access to tools and technologies towards safer and more sustainable agriculture through regulatory collaboration, included equivalence as one of the possible concepts for further Committee discussion in connection with fall armyworm (FAW).\(^{25}\)

7 GOOD REGULATORY PRACTICE

7.1. In 2017, the Secretariat held a regional SPS workshop for Latin America (co-organized with the Inter-American Institute for Cooperation on Agriculture) in Costa Rica, with a focus on good regulatory practice.

7.2. In the 2017 Thematic Workshop on Transparency\(^{26}\), organized by the Secretariat, one particular session focused on national experiences and best practices in public consultations. This session highlighted relevant international work on models and mechanisms for public consultation when developing SPS regulations, with speakers from the OECD, the World Bank and Malaysia, which provided both a national and an APEC perspective. One key recommendation was to find ways to align domestic consultation processes with those required by the WTO in order to maximize the benefits of comments received from abroad. Having a single, unified website or portal was also highlighted as being useful in conducting and managing a consultative process.

7.3. In 2017, the STDF reported on new work on good regulatory practice in the SPS area. This information is available in section 18.3.\(^{27}\)

8 IMPLEMENTATION OF THE AGREEMENT – SPECIFIC TRADE CONCERNS

8.1. Part of each Committee meeting is devoted to the consideration of specific trade concerns raised by Members. At the March 2000 meeting of the SPS Committee, the Secretariat was requested to prepare a paper summarizing the specific trade concerns that had been brought to the Committee's attention since 1995 and to update this document annually to include new information provided by Members. The statistics below are derived from the twentieth revision of G/SPS/GEN/204,\(^{28}\) and include all issues which have been raised at SPS Committee meetings through to the end of 2019.

\(^{23}\) The programme is available in document G/SPS/GEN/1675/Rev.1. Presentations from the thematic session are also available at: https://www.wto.org/english/tratop_e/sps_e/workshop18032019_e.htm.

\(^{24}\) G/SPS/W/317.

\(^{25}\) See the section on fall armyworm in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of submitted proposals and the subsequent discussions.

\(^{26}\) See section 19.5 for additional information on the Thematic Workshop on Transparency.

\(^{27}\) In July 2019, the OECD-WTO publication "Facilitating Trade through Regulatory Cooperation: The Case of the WTO’s TBT/SPS Agreements and Committees" was launched within the context of the Aid for Trade Global Review.

\(^{28}\) G/SPS/GEN/204/Rev.20 was circulated to Members on 5 March 2020.
8.2. Altogether, 469 specific trade concerns were raised between 1995 and the end of 2019. Chart 1 shows the number of new concerns raised each year; 101 new concerns have been raised since 2014. Chart 2 categorizes the trade concerns raised since 2014 into food safety, animal health, plant health or other concerns. It is important to keep in mind, however, that some issues may relate to more than one of these categories. Concerns relating to zoonoses, for example, may relate to measures taken with both animal health and food safety objectives. For the purposes of these graphs, a single objective has been designated as the principal concern. Since 2014, 36% of trade concerns discussed raised relate to food safety, 22% relate to plant health, and 15% refer to other concerns such as certification requirements or translation. 27% of concerns raised relate to animal health and zoonoses.

**Chart 1 – Number of new STCs raised**

![Chart showing the number of new STCs raised each year from 1995 to 2019.](image)

**Chart 2 – Trade concerns between 2014-2019, by subject**

![Pie chart showing the percentage of trade concerns raised since 2014, categorized by subject.](image)

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29 Information relevant to this section, but which precedes the period under review, can be found in former revisions of document G/SPS/GEN/204.
8.3. Developing country Members have been participating actively under this agenda item in the SPS Committee meetings. Chart 3 indicates that over the last six years, developing country Members have raised 91 issues (on many occasions more than one Member has raised, supported or maintained an issue) compared to 38 raised by developed country Members and five raised by a least-developed country Member. A developing country Member has supported another Member raising an issue in 133 cases, compared to 25 for developed country Members and 18 for least-developed country Members. In 36 issues, the measure was maintained by a developed country Member, and in 70 cases it was maintained by a developing country Member. No trade concern regarding measures maintained by least-developed country Members has been raised during the period. Chart 4 shows the number of new issues raised since 2014 by each category of Member.\(^{30}\)

**Chart 3 – Participation by WTO Members (2014-2019)**

![Chart 3](chart3)

**Chart 4 – Number of new issues raised by Members between 2014 and 2019**

![Chart 4](chart4)

8.4. Members are regularly invited to report on resolved issues. Chart 5 indicates that 168 trade concerns have been reported resolved out of the 469 trade concerns raised over the 25 years (i.e. 1995-2019). Of which, 28 issues were reported as resolved between 2014 and 2019. In

\(^{30}\) As any individual trade concern can potentially be raised by more than one Member, this explains the apparent double-counting shown in Charts 3 and 4 compared with the overall count of the 101 specific trade concerns raised since 2014.
addition, eight trade concerns were reported as partially solved during the period under review. In these instances, trade may have been allowed for selected products or by some of the importing Members maintaining the measure in question. No solutions have been reported for the remaining 267 trade concerns, although some of these may have been resolved without the Committee being made aware of these developments.


9 IMPLEMENTATION OF THE AGREEMENT – USE OF AD HOC CONSULTATIONS

9.1. Article 12.2 states that the Committee "shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues". In each of the previous reviews, the Committee has recognized the usefulness of Article 12.2, and in particular of the good offices of the Chairperson, as a means of facilitating the resolution of trade problems.

9.2. Following-up on the Second Review, the Committee began discussing a possible procedure to facilitate the use of ad hoc consultations and negotiations to resolve SPS issues. After the Committee's recommendation in the Third Review to expeditiously conclude this issue, several Members submitted proposals for such a procedure. Members worked intensively to develop a procedure (G/SPS/W/259 and its revisions) during 2011 to 2013.

9.3. At the SPS Committee meeting in March 2014, India sought clarification on several specific issues relating to the procedure outlined in G/SPS/W/259/Rev.7, which were circulated in document RD/SPS/4. The stewards and co-stewards of the electronic working group that had been established to facilitate reaching consensus on the draft procedure reviewed the queries submitted by India, and provided the requested clarifications in RD/SPS/5 in June 2014.

9.4. In July 2014, the Committee adopted the Recommended Procedure to Encourage and Facilitate the Resolution of Specific Sanitary and Phytosanitary Issues among Members in Accordance with Article 12.2, with the changes suggested by India, on an ad referendum basis. No Member raised an objection by the deadline, and the final decision was circulated as G/SPS/61.

9.5. Based on paragraph 4.1 of G/SPS/61, the Secretariat prepares an annual report on the use of the procedure. Since the adoption of G/SPS/61, no Member has requested consultations under this procedure.

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31 G/SPS/12, paragraph 24; G/SPS/36, paragraphs 87-88; G/SPS/53, paragraphs 116-126; G/SPS/62, paragraphs 11.1-11.7.
32 G/SPS/W/243/Rev.4 and JOB/SPS/1.
33 Additional information on the Committee’s discussions before 2014 can be found in section 11 of the Fourth Review Report (G/SPS/62).
34 These annual reports are contained in documents G/SPS/GEN/1457, G/SPS/GEN/1513, G/SPS/GEN/1573, G/SPS/GEN/1642 and G/SPS/GEN/1729.
10. MONITORING THE USE OF INTERNATIONAL STANDARDS (ARTICLES 3.5 AND 12.4)

10.1. Articles 3.5 and 12.4 of the SPS Agreement require the Committee to develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines and recommendations. The Committee initially adopted a monitoring procedure in 1997, which was revised in November 2004. In June 2006, the Committee decided to extend this procedure indefinitely, and to review its operation as an integral part of the periodic review of the operation and implementation of the Agreement under Article 12.7.

10.2. The monitoring of the use of international standards is a standing item on the agenda of regular Committee meetings, and in accordance with the agreed procedure, the Committee has produced annual reports relating to the process of monitoring international harmonization.

10.3. In 2014, the IPPC presented information on the Implementation Review and Supporting System (IRSS), noting that the system had been widely recognized as a very helpful tool to promote and facilitate the IPPC monitoring system. Chile reaffirmed the need to revise the monitoring procedure under Article 12.4 to address the problems of developing countries that find it difficult to attend the meetings of the "Three Sisters" and therefore lack information on the extent to which international standards are being applied.

10.4. In 2015, several new issues were raised under the monitoring procedure: (i) US concerns on the use of the Codex international standard on glyphosate; (ii) Burkina Faso's concern on the lack of a Codex standard for imidacloprid in sesame; and (iii) Belize's concerns regarding Members' deviations from the use of international standards. One previously raised issue was also discussed regarding US concerns on HPAI restrictions not consistent with the OIE international standard.

10.5. In 2016, several previously raised issues were discussed: (i) Argentina's concerns regarding measures on bovine semen and reproductive material more restrictive than the OIE Standard; (ii) Senegal's concerns regarding the application of ISPM 13 on notifications of non-compliance; (iii) US concerns regarding BSE restrictions not consistent with the OIE International Standard; (iv) US concerns regarding IPPC phytosanitary certificate requirements for processed food products; (v) US concerns regarding the use of the Codex international standard on glyphosate; and (vi) US concerns regarding HPAI restrictions not consistent with the OIE International Standard.

10.6. In 2017, several new concerns were raised by the United States relating to: (i) Codex guidelines and principles for official certification requirements; (ii) the relation of the World Health Organization and the Food and Agriculture Organization to Codex Alimentarius; and (iii) the OIE's new chapter on porcine reproductive and respiratory syndrome (PRRS). Also in 2017, several previously raised issues were discussed: (i) Argentina's and US concerns on the use of the Codex international standard on glyphosate; (ii) Burkina Faso's and Senegal's concerns regarding the application of ISPM 13 on notifications of non-compliance; (iii) US concerns regarding BSE restrictions not consistent with the OIE international standard; (iv) US concerns regarding IPPC phytosanitary certificate requirements for processed food products; and (v) the EU and US concerns regarding HPAI restrictions not consistent with the OIE international standard. Codex submitted a report which provided additional information on glyphosate.

10.7. In 2017, the Committee agreed to circulate the convening airgram one week earlier than the previous practice. This meant that the original deadline for raising agenda items under the procedure to monitor the use of international standards (G/SPS/11/Rev.1), which was 10 days before the meeting, no longer coincided with the deadline for raising issues under other agenda items. In this regard, the Chairperson suggested that Members respect the earlier deadline for submitting issues under the monitoring agenda item, which in practice would mean that Members would submit all agenda items up to, but not including, the day on which the notice convening the meeting was to be issued.

10.8. In 2018, several new issues were raised: (i) US concerns regarding unnecessary delays in adoption of Codex Food Additive Standards; (ii) US concerns regarding non-science factors in Codex

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35 G/SPS/11/Rev.1.
36 G/SPS/37, G/SPS/42 and G/SPS/42/Corr.1, G/SPS/45, G/SPS/49, G/SPS/51 and G/SPS/51/Corr.1, G/SPS/54, G/SPS/56, G/SPS/59, G/SPS/GEN/1332, G/SPS/GEN/1411, G/SPS/GEN/1490, G/SPS/GEN/1550, G/SPS/GEN/1617 and G/SPS/GEN/1710.
37 G/SPS/GEN/1344.
38 G/SPS/GEN/1577/Add.1.
standards; (iii) EU concerns on ASF restrictions not consistent with the OIE international standard; (iv) Indonesia's and US concerns regarding risk management related to the global movement in plant seeds (ISPM 38); and (v) India's concerns regarding the use of the Codex definitions for milk and milk products. Some previously raised issues were also discussed: (i) EU and US concerns regarding HPAI restrictions not consistent with the OIE international standard; (ii) US concerns regarding the relation of the World Health Organization and the Food and Agriculture Organization to Codex Alimentarius; (iii) US concerns regarding the non-use of Codex Guidelines and Principles on Official Import and Export Certificates; (iv) US concerns regarding BSE restrictions not consistent with the OIE international standard; and (v) US concerns regarding the use of the Codex international standard on glyphosate.

10.9. In 2019, the United States raised a new issue regarding the Codex task force on antimicrobial resistance. The following previously raised issues were discussed again: (i) EU concerns regarding ASF restrictions not consistent with the OIE international standard; (ii) EU and US concerns regarding HPAI restrictions not consistent with the OIE international standard; (iii) US concerns regarding BSE restrictions not consistent with the OIE international standard; and (iv) US concerns regarding the use of the Codex international standard on glyphosate.

11 OBSERVER STATUS

11.1 New requests

11.1. In May 2016, the Committee received a new request for ad hoc observer status from the Caribbean Agricultural Health and Food Safety Agency (CAHFSA). In October 2016, the Committee granted CAHFSA observer status.

11.2. In September 2019, the Committee received a new request for ad hoc observer status from the United Nations Industrial Development Organization (UNIDO). In the November 2019 Committee meeting, some delegations requested more time to consider this request, and the Committee agreed to return to it at its next Committee meeting.

11.3. In December 2019, the Committee received another new request from the Arab Organization for Agricultural Development (AOAD). The Committee will be invited to consider this request in its next meeting.

11.2 Outstanding requests

11.4. During the period of Review, the Committee did not reach consensus on the outstanding requests for observer status, namely the Convention on Biological Diversity (CBD); CABI International; the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); the Organisation Internationale de la Vigne et du Vin (OIV); the Asian and Pacific Coconut Community (APCC); and the International Cocoa Organization (ICCO).

11.5. The Committee had agreed, in 2012, that if for any one-year period an ad hoc observer organization did not attend any meetings of the SPS Committee, the Committee would consider that its observer status has lapsed, but only after the Secretariat had contacted the observer organization and received confirmation that it was no longer interested in maintaining its observer status. This verification procedure had been undertaken by the Secretariat since 2012.

11.6. In November 2019, the Chairperson recalled that at the March 2019 SPS Committee meeting, the Secretariat had highlighted the inconvenience of this verification procedure, and that all contacted observers had always indicated an interest in keeping their observer status. The Committee had been invited to reflect on whether the verification procedure should be less frequent or applied only when the need arose. The Chairperson proposed applying the procedure less frequently in the future.
11.7. The Committee agreed that the verification procedure for observers who have not attended any meetings in one year should not be undertaken every year, but as the need arises, for example if it became apparent that an observer organization was no longer participating in the meetings.

12 OTHER SUBSTANTIVE DISCUSSIONS

12.1 Maximum residue limits (MRLs) for plant protection products

12.1.1 In 2015, India presented a document on the need for measures on detection of pesticide residues not registered in the country of import for unimpeded flow of trade. The purpose of the paper was to put into context the persistent problem faced by exporters from developing countries due to importing countries’ application of limits of detection (LoDs) for these pesticides. India observed that LoDs were being applied even for substances where Codex standards existed and provided examples where the application of LoDs had a trade impact. The document concluded by suggesting certain steps in dealing with this issue. India also proposed two corrections to the document.

12.2. Several Members shared India’s concerns and the need to evaluate whether guidelines could be recommended, while some also expressed their view that the Committee should not embark on the task of producing guidelines. Argentina recalled that in 2007 it had submitted document G/SPS/W/211 on MRLs for pesticides and their impact on exports of developing countries. Codex highlighted that where no MRLs existed, Members should provide data to the relevant scientific bodies to support the elaboration of a Codex standard. Sustainable funding to support scientific advice was also key in this area. Codex reminded the Committee that its standards were voluntary and only became compulsory once written into legislation. The Chairperson suggested that the subject be further explored in a thematic session and invited Members to submit suggestions for an agenda for such a thematic session to the Secretariat. The Secretariat was requested to prepare a draft programme for such a session.

12.3. The Secretariat organized a Thematic Workshop on Pesticide Maximum Residue Levels in October 2016, which brought together officials for an in-depth session focusing on the relevant provisions of the SPS Agreement and related dispute settlement reports, as well as the Codex approach to establishing MRLs. The workshop also benefitted from presentations on various regional and international initiatives focused on harmonizing MRLs and establishing MRLs for minor-use crops. In addition, various WTO Members shared their national experiences on establishing MRLs and provided insights into the challenges of implementing and complying with Codex MRLs, as well as the impact of default MRLs and MRL expiration on international trade. Speakers from the private sector also contributed to the workshop, highlighting various ways for the private sector to be involved in establishing MRLs, such as by providing relevant technical data. Several follow-up actions were proposed during the workshop, with a view to addressing various concerns related to pesticide MRLs.

12.4. Following the workshop, the United States made suggestions for future work by the SPS Committee in four topic areas: (i) enhancement of the Codex MRL system; (ii) transparency and predictability in Members’ regulatory approaches; (iii) regular updates on harmonization efforts being undertaken by APEC, NAFTA, OECD and EAC, with the aim of inspiring similar harmonization initiatives at the regional level; and (iv) greater access of developing countries to newer, alternative pesticides that can replace older pesticides. The United States invited Members to consider ways in which their regulatory frameworks can impact the investment incentives of the private sector. In terms of next steps, the United States proposed that a statement by the Committee be drafted in support of this work, but deferred to the Chair and other Members as to the desirability and appropriate means to transmit this message.

12.5. Several Members supported the follow-up activities proposed by the United States, and further requested that the United States, as well as other Members, circulate their suggestions in writing for further review. Other MRL-related concerns were expressed by Members, such as the

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44 G/SPS/W/284.
45 See also G/SPS/W/211/Corr.1.
46 G/SPS/GEN/1466.
47 The summary report of the Pesticide MRLs Workshop was circulated as G/SPS/R/85. The programme (G/SPS/GEN/1514/Rev.1) and presentations from the workshop are available via the following link: https://www.wto.org/english/tratop_e/sps_e/wkshop_oct16_e/wkshop_oct16_e.htm.
48 October 2016 SPS Committee meeting, see G/SPS/R/84.
absence of alternative chemicals, especially for minor use and specialty crops, and the need for greater involvement in data generation efforts.

12.6. In 2017, the Committee discussed a proposal presented by Kenya, Uganda and the United States on possible next steps for consideration by the SPS Committee.\[49\] The five main follow-up actions in order to advance the Committee's work on trade-related MRLs were: (a) enabling JMPR to better respond to increased demand and monitoring progress on new Codex MRLs; (b) strengthening notification practices for greater transparency and predictability on MRLs; (c) reporting to the Committee on international and regional activities on MRLs; (d) collaborating on solutions for MRLs for minor use and specialty crops; and (e) discussing the role of the Committee in increasing coordination and harmonization. In relation to the last proposal, the United States also highlighted that if there was consensus in the Committee on any of the proposed suggestions, the Chairperson could issue a statement reflecting this consensus.

12.7. In discussions of the proposal, several Members signalled their support, highlighting that the areas mentioned were of interest for many Members and that the suggestions would assist in improving market access for agricultural exports. Several Members also made suggestions to further improve the proposal. India also reminded Members of the proposals made in document G/SPS/W/284, and indicated that the concerns remained unaddressed. In the view of the United States, the information provided by experts at the workshop provided a firmer basis for the resolution of trade-related MRL issues, based on which the joint paper recognized a wide range of legitimate MRL-related trade concerns that Members could collectively work to resolve. The United States recognized that the LoD issue was complex, as they had a pre-market authorization approval system that was consistent with their rights under the SPS Agreement. The United States indicated openness for discussions with India and other Members on their perspectives.

12.8. The WHO welcomed the proposal for follow-up work on pesticide MRLs. In relation to the JMPR recommendation, the WHO encouraged Members to have their national experts apply to serve as experts to the JMPR process.

12.9. A revised version of the proposal\[50\] was circulated ahead of two consultations held in October 2017. It suggested that the SPS Committee include the recommendations contained in the proposal in the future Report of the Fifth Review of the Operation and Implementation of the Agreement. It also suggested that the Committee endorse a proposed Ministerial Decision annexed to the proposal for transmission to MC11. A majority of Members supported the proposal, some indicated that they were still studying it and several Members asked about the proposed process for the possible adoption of the Ministerial Decision.

12.10. On the basis of comments received, a subsequent revision\[51\] was circulated, along with a compilation of comments that had been received, a track-change version explaining how comments had been considered, and a separate response to India’s comments. In November 2017, the Committee discussed the revised proposal. The authors of the proposal stressed the trade disruptions caused by missing and misaligned MRLs, and the urgency of stepping up efforts to find solutions to these concerns. They proposed taking this work of the Committee to a higher level, which would give momentum to the important task of resolving MRL-related trade concerns, and would also contribute to reinvigorating the work of the Committee.

12.11. Many Members expressed their support for the proposal, both the draft Ministerial Decision, as well as the inclusion of the recommendations in the Fifth Review. Several of these Members indicated that the proposal and its recommendations broadly captured the current MRL-related concerns and noted that the proposal would be beneficial to all Members. Several Members also thanked the proponents for the transparent and consultative approach used throughout the process, highlighting that these discussions had started a year ago, on the basis of deliberations in the Workshop on Pesticide MRLs, followed by informal discussions in several meetings. In addition, it was noted that the topic of pesticide MRLs merited consideration at the Ministerial Conference.

12.12. Four Members indicated that they were not in a position to support the Ministerial Decision. Their concerns related to the timing of the proposal, the merits of singling out a single topic for Ministers’ attention, and the existence of a mandate. One Member raised questions for clarification.

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\[49\] G/SPS/W/292.
\[50\] G/SPS/W/292/Rev.1.
\[51\] G/SPS/W/292/Rev.2.
inter alia on the title of the proposed Decision, its scope, some of the terminology used, and the desire to avoid duplication. A couple of Members made textual suggestions, and were invited to submit them in writing. India thanked the proponents for their written response to its comments. India was of the view that the proposal required further discussion and invited the proponents to substantively address its concerns, as outlined in G/SPS/W/284. India noted that until the discussions in the SPS Committee were exhausted, it would be premature to submit recommendations for the Fifth Review or to the Council for Trade in Goods (CTG).

12.13. Uganda, Kenya and the United States voiced their disappointment that the Committee had been unable to reach consensus on the proposal, and also expressed regret for the lost opportunity to advance the proposed Ministerial Decision, which would have been beneficial to all Members, particularly to developing and least-developed countries. The United States further provided a detailed response to several arguments raised by opponents of the Ministerial Decision.

12.14. At the Buenos Aires Ministerial Conference in December 2017, 17 Ministers signed a joint statement on trade in food and agricultural products, which recognizes the work undertaken by the SPS Committee to examine pesticide-related issues.\(^52\)

12.15. In 2018, Canada provided information on a training session held in partnership with FAO and the United States, with the aim of increasing the pool of scientific experts available to conduct pesticide residue evaluations for JMPR, held in November 2017. Canada highlighted that the event had increased the availability of knowledgeable experts who would contribute to the JMPR panel and to the development of international standards on pesticides. Canada also informed the Committee that it was working with FAO to organize an extraordinary session of the Joint FAO/WHO Meeting on Pesticide Residues scheduled for May 2019. This meeting would focus on addressing the growing backlog of new use evaluations and facilitating the timely establishment of international standards.

12.16. In 2018 and 2019, the Committee discussed a revised joint proposal on MRLs for plant protection products that was submitted under the Fifth Review.\(^53\)

12.17. In 2019, Australia drew attention to the "APEC Import MRL Guideline for Pesticides: A Guideline on Possible Approaches to Achieve Alignment of International MRLs".\(^54\) The United States and Canada thanked Australia for the information provided.

12.18. Also in 2019, China proposed the topic of default (uniform) pesticide MRLs set at limits of detection for a workshop or thematic session, noting that there were no relevant international standards. Several Members supported the proposal. One Member further suggested that the topic be combined with Canada's suggestion for a workshop on risk analysis, but also noted the value of China's proposal as a stand-alone issue. Another Member suggested broadening China's proposal to include default MRLs for veterinary drug residues and those compounds administered to animals or added to feed or fertilizers with the intention to mitigate the effects of climate change or other negative environmental impacts. Some Members supported this suggestion, while highlighting the importance of addressing challenges for developing countries.

12.19. Also in 2019, Canada stated its commitment to the work of Codex. Additionally, it reported on its work with the FAO, WHO, the Codex Committee on Pesticide Residues (CCPR) and Members; notably on a JMPR expert training and an extraordinary session of JMPR. The training led to the designation of six new JMPR pesticide residue experts. The United States supported Codex efforts; they also highlighted three STDF projects which had led to the establishment of new Codex MRLs. The United States also provided information on the Global Minor Use Foundation, which sought to expand access to newer, lower-risk pesticide options for tropical produce, and on an international workshop on missing MRLs. Brazil, Chile, Colombia, Costa Rica, Côte d'Ivoire, Guatemala, Kenya, Morocco, Nigeria, Peru, Senegal and ECOWAS echoed Canada's support for science-based SPS measures and the importance of contributing to the work of Codex and JMPR. Chile noted its work co-chairing two of JMPR's working groups on pesticide residues, one with India and the United States, and the other with India and Kenya, and encouraged Members to contribute in this

\(^{52}\) WT/MIN(17)/52.
\(^{53}\) G/SPS/W/292/Rev.4. See the section on MRLs for plant protection products in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposal and the subsequent discussions.
\(^{54}\) G/SPS/GEN/1746.
way. Burkina Faso requested that JMPR include sesame in its studies, and Côte d’Ivoire and Nigeria, pointed to the need for technical assistance in this area.

12.20. Also in 2019, Codex reported that the Codex Alimentarius Commission had adopted several standards and other texts, including MRLs for 32 different pesticides in various foods and feeds, and 154 food additives provisions in the General Standard for Food Additives. IICA drew attention to a workshop it hosted on scientific justification issues arising from the application of the SPS Agreement. Representatives of nearly 20 countries had attended the event and had explored practical examples of the application of the SPS Agreement and the proper definition of pesticide MRLs.

12.2 Fall armyworm (FAW)

12.21. In 2018, the European Union informed Members of its specific project on integrated pest management strategies to counter the threat of invasive FAW for food security in Eastern Africa. Zambia also reported on the presence of FAW in Zambia, but noted that government authorities and various stakeholders were working to control the pest.

12.22. In 2018 and 2019, the Committee discussed proposals on fall armyworm that were submitted under the Fifth Review. The Committee agreed to hold a Thematic Session on Fall Armyworm, based on the proposal contained in G/SPS/W/305. The proposal also suggested the creation of a working group to discuss this topic. Brazil expressed its support for the proposal of having an open discussion of the working group on fall armyworm.

12.23. Also in 2018, the IPPC reported that discussions in the Strategic Planning Group (SPG) meeting had been looking at how it could be involved in issues related to emerging pests, such as FAW. The African Union (AU) emphasized that 44 countries had officially reported the presence of FAW in their countries in February 2018. The AU also indicated that the Executive Council of the African Union Heads of States had considered the challenges presented by FAW, and that an emergency fund was being established for this topic, among other initiatives undertaken.

12.24. ECOWAS informed the Committee that the recent introduction of the FAW and the discovery of the new alien invasive pest in West Africa were growing threats of concern to agriculture and food security in 44 countries in the sub-Saharan region, including 15 West African countries, and informed the Committee about the joint monitoring mission FAO-CILSS aimed at anticipating the risk of food safety and at informing preparedness and response interventions to FAW. ECOWAS also reported that it had conducted regional trainings on improving the monitoring of FAW risk.

12.25. Brazil underscored the serious nature of FAW and its impact in Africa and highlighted its experience in dealing with the problem, its on-going technical support to African countries to combat FAW through an integrated pest approach, and the successful results obtained.

12.26. In March 2019, the Committee held a Thematic Session on Fall Armyworm, as had been agreed by the SPS Committee in November 2018, based on a joint proposal submitted by Brazil, Kenya, Madagascar, Paraguay, the United States of America and Uruguay. The purpose of the thematic session was 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. Global, regional and domestic approaches to enable regulatory frameworks to facilitate access to safe and effective tools and technologies were presented. Members also shared their experiences in dealing with fall armyworm in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposals and the subsequent discussions.

\[55\] G/SPS/W/305, G/SPS/W/309, G/SPS/W/309/Corr.1 and G/SPS/W/317. See the section on fall armyworm in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposals and the subsequent discussions.

\[56\] G/SPS/GEN/1629.

\[57\] G/SPS/GEN/1643.

\[58\] The programme is available in document G/SPS/GEN/1676/Rev.1, based on the structure suggested by the co-sponsors of the proposal in document G/SPS/W/305 (and corrigendum). Presentations from the thematic session are also available at: https://www.wto.org/english/tratop_e/spse/workshop19032019_e.htm.  

\[59\] G/SPS/W/305.
armyworm, highlighting their successes and challenges. The WTO Global Trust Fund and the United States had provided funding for several speakers, which helped ensure a balance of views.

12.27. First, the Secretariat provided an overview of certain SPS Agreement provisions and dispute settlement reports that could be relevant to regulatory approaches that enable access to safe tools and technologies. In the second session, experts from USAID, the Centre for Agriculture and Bioscience International (CABI) and the International Maize and Wheat Improvement Center (CIMMYT) provided thorough information on the biology, history and spread of the pest, and emphasized the importance of integrated pest management as a key framework to approach FAW. In the third session, the African Union Inter-African Phytosanitary Council (AU-IAPSC), USAID, ECOWAS, the European Union, Chinese Taipei and the East African Community (EAC) Secretariat presented on global, regional and domestic approaches. Finally, Brazil, South Africa, Kenya, Paraguay and Australia shared their experiences in dealing with fall armyworm. Suggestions were made to build on the exchanges during the thematic session as a contribution to IPPC's 2020 International Year of Plant Health. The IPPC asked countries to share with the IPPC secretariat cases of interventions of FAW in trade.

12.28. At the end of the thematic session, the Chairperson invited Members to comment on the first open-ended meeting of the Working Group on FAW, which had been held after the informal meeting. Brazil proposed as possible next steps regarding sections 5 and 6 of document G/SPS/W/305, that the working group discuss examples of the effective use of the principles of the SPS Agreement to fight FAW, and to collect and compile information and experiences resulting from collaboration towards a safer and more sustainable agriculture. Brazil suggested that the co-sponsors of the proposal for the thematic session could circulate examples building on the discussions that took place in the thematic session and in the informal meeting of the SPS Committee.

12.29. Also in 2019, the IPPC mentioned that it was looking at how it could be involved in issues related to emerging pests, such as fall armyworm. The African Union reiterated its efforts to support the management of FAW outbreaks in Africa with other developing partners. ECOWAS drew attention to the training it had provided to strengthen the monitoring of the prevalence and impact of FAW, with the financial and technical support of FAO; which had led to additional targeted funding. ECOWAS had also held a regional conference on sustainable management of FAW in the Sahel, and West Africa in Burkina Faso. On plant health, ECCAS had worked on FAW and on a platform for the coordination of SPS issues.

12.3 Antimicrobial resistance (AMR)

12.30. In 2014, the OIE informed the Committee that the proposed revision of the OIE Terrestrial Code standard on risk assessment for AMR had been proposed for adoption. In October 2015, the OECD held a workshop on "Economics of Antimicrobial Use in the Livestock Sector and Development of Antimicrobial Resistance". In 2016, the OIE highlighted a technical item which had been discussed at the General Session: "Combatting Antimicrobial Resistance through a One Health Approach". The OIE further noted that the Assembly had adopted a resolution endorsing the basic principles of the OIE global strategy against AMR. Also in 2016, IICA informed of a training programme on AMR and the establishment of an AMR surveillance system. In 2017, the OIE highlighted work of the ad-hoc group on AMR; IICA noted capacity building activities in areas such as AMR.

12.31. Also in 2017, Senegal provided information on its antimicrobial monitoring plan for food products of animal origin to identify sources of contamination, including salmonella, in sheep meat, poultry, pork, beef and meat preparations; and for the detection of antibiotic residues in meat samples. Senegal emphasized that its national risk assessment system was able to address all food safety issues and the data served to guide its authorities on these matters.

12.32. In 2018, the European Union informed the Committee that EU co-legislators had agreed on the text of the new Regulation on Veterinary Medicinal Products, a new legal framework for the authorisation and use of veterinary drugs in the European Union. The European Union explained that the European Commission had issued a proposal for the Regulation in September 2014, which had been notified under the TBT Agreement in April 2015 as document G/TBT/N/EU/279. The Regulation would enter into force in November 2018, and would take effect at the end of 2021, three years after its entry into force. One of the key objectives of the new Regulation was to address the public

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60 Argentina and the United States raised an STC on this topic (STC 446), supported by Australia, Brazil, Canada, Chile, Colombia and Paraguay.
health risk of antimicrobial resistance (AMR), following the One Health approach. The European Union elaborated that the Regulation laid down several actions to fight AMR, including: strengthening the principles behind the prudent use of antimicrobials, for example by avoiding the routine prophylactic and metaphylactic use; reserving certain antimicrobials for treatment of infections in humans only; and banning the use of antimicrobials in animals for growth promotion or yield increase. The European Union noted that the new Regulation was part of a package which included a new regulation on medicated feed, which contained measures aimed at fighting the misuse of antimicrobials, including a ban on their use in medicated feed for prophylaxis, and limiting treatment duration.

12.33. The European Union provided additional information on the new Regulation, while stressing the concern that AMR organisms and resistance determinants could spread to humans and animals through food and feed originating within or outside the European Union. Therefore, the new Regulation would require, in a non-discriminatory and proportional manner, that operators in non-EU countries refrain from using antimicrobials for growth promotion or antimicrobials designated in the European Union as reserved for human use only, in respect of animals or products of animal origin exported to the European Union.

12.34. Japan looked forward to receiving more information on the implementation of the new Regulation in delegated and implementing acts. The United States requested clarification on the rationale for the notification as a TBT measure in 2015. In addition, the United States requested assurances that the measures in delegated and implementing acts would be notified to the SPS Committee.

12.35. The European Union explained that the original 2014 proposal had been notified under the TBT Agreement because, at that time, no SPS provisions had been regarded as potentially affecting international trade. The European Union clarified that the original proposal had changed, and assured the Committee that the new implementing measures would be notified to the WTO, and would be notified to the SPS Committee if it were concluded that they were SPS measures. In any case, the SPS Committee would be duly informed.

12.36. Also in 2018, Codex drew the Committee's attention to the meeting of the Ad hoc Codex Intergovernmental Task Force on Antimicrobial Resistance (TFAMR) held in December 2018. Codex highlighted two main documents for this meeting which were available for public comments and consultation on the Codex website: (i) the proposed draft Revision of the Code of Practice to Minimize and Contain Antimicrobial Resistance (CAC/RCP 61-2005); and (ii) the proposed draft Guidelines on Integrated Surveillance of Antimicrobial Resistance. The IPPC noted that its Strategic Planning Group (SPG) was also considering to what extent the IPPC community should be involved in addressing antimicrobial resistance and had agreed to forward this issue to CPM-14 (2019) for discussion.

12.37. The OIE reported that new and revised definitions of "veterinary medical use", "non-veterinary medical use" of antimicrobials, as well as "growth promotion" had been introduced into the Terrestrial Code, to clarify the way countries should report on their use of antimicrobial agents in animals and thereby contribute to the global effort to contain AMR. The OIE added that these definitions emphasized the essential role of the veterinary prescription, which should be mandatory for any veterinary use. The OIE also informed the Committee on the OIE Global Conference on Antimicrobial Resistance which had been held in October 2018, with the aim of improving the implementation of OIE standards on AMR.\footnote{For more information see G/SPS/GEN/1652.}


12.39. In 2019, the Russian Federation announced the organization of an international conference on "Food Safety Risk Analysis and Antimicrobial Resistance" to enhance multinational cooperation on food safety. The conference would be aimed at gathering representatives in animal health, public health and food safety sectors to facilitate an exchange in experiences and best practices relating to reduction of AMR, among other topics. Argentina also informed Members about its National Programme for Antimicrobial Resistance (AMR) Surveillance in animals for human consumption.\footnote{G/SPS/GEN/1742.}

12.40. As reported under the section on monitoring the use of international standards, the United States expressed its commitment to addressing AMR through sound science and collaboration
in Codex. Australia supported the joint work of WHO, the OIE, and FAO in setting international standards for AMR and reiterated its commitment on this topic.

12.41. Also in 2019, Codex informed the Committee that the Ad hoc Codex Intergovernmental Task Force on Antimicrobial Resistance (TFAMR) had agreed to return the proposed revised draft Code of Practice to Minimize and Contain Antimicrobial Resistance (CXC 61-2005) for re-drafting. The Task Force had also decided to continue working on the development of the Guidelines on Integrated Surveillance of Antimicrobial Resistance. The Ad Hoc Codex Intergovernmental Task Force on Antimicrobial Resistance would discuss the revision of the Code of Good Practice to Minimize and Contain Antimicrobial Resistance and on development of guidelines on integrated surveillance of antimicrobial resistance. The OIE also indicated that it had published its Third Annual Report on Antimicrobial Agents Intended for Use in Animals, available on its website.

12.42. IICA informed Members of its continued support to its member States in the development of integrated antimicrobial resistance surveillance plans, noting that it would provide support to Caribbean and Latin American countries through a competitive fund to facilitate participation in the meetings of the Ad Hoc Codex Intergovernmental Task Force on Antimicrobial Resistance. The African Union also drew attention to its work with its member States to coordinate common positions on draft chapters of the OIE Terrestrial and Aquatic Codes, and on food hygiene and antimicrobial resistance for the relevant Codex sessions.

12.4 Gene editing and other forms of biotechnology

12.43. In 2018, Argentina drew the Committee's attention to a joint communication on precision biotechnology (G/SPS/GEN/1658/Rev.2). Argentina also informed of a "Seminar on Genome Editing for Regulators" which had been organized by IICA in April 2018, to coordinate efforts to ensure that the regulatory approaches for these techniques, which include gene editing, are scientifically based and internationally harmonized. Australia, Brazil, Canada, Colombia, the Dominican Republic, Guatemala, Honduras, Jordan, Paraguay, the United States, Uruguay and Viet Nam supported the International Statement on Agricultural Applications of Precision Biotechnology. ECOWAS also expressed support for the proposal, while highlighting some challenges for developing countries in responding to this advanced technology.

12.44. In 2019, Argentina informed Members of the Ministerial Declaration issued by the Agriculture Ministers of the Southern Agricultural Council (CAS) (comprising Argentina, Brazil, Chile, Paraguay and Uruguay) on gene editing techniques, dated September 2018 and circulated as G/SPS/GEN/1699. The Declaration highlighted the role of gene editing techniques in addressing challenges arising from the need to increase agricultural production in a sustainable manner. The non-binding text of the Declaration aimed at coordinating efforts to ensure that the regulatory approaches for these techniques were science-based and internationally harmonized; sought to prevent regulatory asymmetries and, in turn, potential trade disruptions; and highlighted the importance of these techniques for national agricultural research institutes. Brazil, Canada, Colombia, Paraguay, the United States and Uruguay supported the Ministerial Declaration, noting that precision biotechnology including genome editing was critical to addressing agriculture's most difficult production and environmental challenges.

12.45. South Africa thanked Members for the initiative and stated that its regulatory authorities had been, and would continue to, assess how to regulate gene editing techniques. Honduras underscored the importance of open communication in order to share reliable data towards a better understanding of regulatory frameworks and product development. Honduras informed the Committee of a simple procedure they had created to approve applications related to gene editing.

12.46. In 2019, the United States brought Members' attention to its Executive Order 13874, entitled Modernizing the Regulatory Framework for Agricultural Biotechnology Products. The United States also drew attention to its Sustainable, Ecological, Consistent, Uniform, Responsible, Efficient (SECURE) proposed rule. The rule sought to modernize USDA's plant biotechnology regulations, to protect plant health while allowing agricultural innovation to thrive. The framework, and the

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63 G/SPS/GEN/1751.
65 G/SPS/GEN/1658/Rev.4 was subsequently circulated on 28 May 2020 with the co-sponsors of Argentina, Australia, Brazil, Canada, the Dominican Republic, Guatemala, Honduras, Paraguay, the Philippines, the United States and Uruguay.
proposed rule, sought to provide a clear, predictable, and efficient regulatory pathway for innovators. The proposed rule sought to facilitate the development of new and novel GE plants that would be unlikely to pose a plant pest risk.

12.47. Also in 2019, the Thematic Session on Approval Procedures had focused, among other issues, on approval of biotech products. Codex had presented on relevant guidance on import and export requirements including safety assessments of food derived from biotechnology. Likewise, discussions had been held on costs and challenges related to asynchronous global approval processes, namely on biotech approvals.

12.5 Low-Level Presence (LLP)

12.48. In 2019, Canada informed the Committee of the work led by the international group Global Low-Level Presence Initiative (GLI). Canada recalled that in 2012, it had hosted an international meeting which gave rise to the International Statement on Low-Level Presence (LLP). Consistent with Codex Alimentarius Commission (CAC) guidance, the International Statement defines LLP as the unintentional presence in grain shipments, at low levels, of a genetically modified (GM) crop that had been approved for food use following CAC/GL 45-2003 Guidelines in at least one country, but not yet in the importing country. LLP situations could occur where there was a time gap in the authorization of GM crops between the importing and exporting countries, or, less frequently, when developers did not seek authorizations in all importing countries. GLI members identified reducing time gaps in approvals of GM crops as the most effective way to tackle LLP and it is one of the long-term objectives of the GLI.

12.49. Argentina, the United States and Brazil supported the International Statement on LLP together with the work of the GLI.

12.50. Also in 2019, Argentina informed Members that at the last meeting of the Ministers of Agriculture of the Agricultural Council of the South (CAS), Argentina, Brazil, Paraguay and Uruguay had signed a declaration on LLP of genetically modified organisms (GMOs) not authorized by the importing country. The declaration underlined the importance of innovation to their agricultural production, and of biotechnology as a tool to incorporate innovation in the development of GMOs. Argentina encouraged Members not to restrict trade based on LLP of non-authorized GMOs, in the importing country, and international cooperation in the context of harmonized international standards.

12.51. Brazil, Paraguay, the United States and Uruguay stressed the crucial role of biotech in facing global food supply challenges. Canada supported the CAS Declaration on LLPs and drew the Committee's attention to the information session it was hosting on LLPs and its consequences for importers and exporters, and importing and exporting countries, on the margins of the July 2019 Committee meeting.

13 PROCEDURAL ISSUES

13.1 Brazil's proposal on the functioning of the SPS Committee

13.1. In 2019, Brazil coordinated the joint efforts of Members, initiated in the context of the Ottawa Group, to work on the functioning of the SPS Committee. In this context, Brazil held several informal consultations with Members and also submitted a proposal which seeks to improve the consultation process among Members, without any changes to their rights and obligations under WTO rules, with the aim of making better use of the Committee's meetings. Brazil thanked Members for their participation in the discussions and for their comments; which had been taken into account in preparing the revised proposal. Brazil emphasized that improving communication among Members when addressing STCs could avoid recourse to the dispute settlement mechanism.

13.2. Many Members welcomed the initiative of discussing ways in which the work of the Committee could be improved to make it more efficient and transparent. One Member proposed an addition, to make it possible to share comments on draft notified measures and receive replies through an online
system that would be publicly available. This would encourage transparency and better coordination. Several Members supported this suggestion.

13.3. A few Members highlighted similarities and differences with the General Council proposal circulated by the European Union and others (WT/GC/W/777/Rev.4). Although this proposal had a more general scope beyond the SPS Committee, it shared similar objectives. Some Members suggested that the proponents should attempt to find common ground, and Brazil and the European Union both indicated that they were open to discussions in this regard.

13.4. Several Members emphasized that the proposed changes should not affect the interactive nature of the discussions in the Committee or make it more difficult to raise STCs. Other Members questioned whether the proposed changes needed to be agreed in a formal decision. They wished to allow the Committee to try new mechanisms and procedures without losing flexibility to make further changes in the future. They were concerned that implementing certain provisions could impose additional burdens on constrained delegations.

13.5. Finally, Brazil mentioned that the consultative process was still ongoing. Brazil welcomed further comments and would reflect them in the proposal. If others considered it necessary or relevant, Brazil was willing to chair further open-ended consultations.

13.2 Annotated agenda

13.6. At the Chairperson's suggestion, the Secretariat prepared and circulated a pilot annotated agenda for the July 2019 SPS Committee meeting, in addition to the convening airgram. The Chairman explained that the annotated agenda, circulated as a pilot, was meant to complement the official airgram. A similar document would be circulated as a Job document for the November 2019 SPS Committee meeting, after the circulation of the formal agenda, with translations to be circulated soon after.\textsuperscript{70} The Chairman drew Members' attention to the table of STCs in the Annex and hoped Members presenting STCs would provide a brief description of the STC to fill in the respective column of the table. The Chairman requested Members to share their comments on the annotated agenda.

13.7. Chile supported the circulation of an annotated agenda by the Secretariat, and added that it would contribute to improving its domestic coordination and enhancing its participation in the SPS Committee. Paraguay and Argentina also supported the initiative.

13.8. The Secretariat further clarified that in the TBT Committee, the annotated agenda replaced the convening airgram. The Secretariat proposed circulating both the convening airgram and the translated annotated agenda as a supplement to it, until Members were used to the annotated agenda.

13.9. In response to a question from Chinese Taipei regarding the agenda format of informal meetings, the Chairperson clarified that informal meetings did not have an airgram, but that further information could be circulated before the following informal meeting.\textsuperscript{71}

13.10. In the November 2019 meeting, the Secretariat invited Members' comments on the proposal to produce an annotated agenda for the formal meeting instead of a convening airgram in the future. No Member raised any concerns. The Secretariat indicated that the annotated agenda would replace the convening airgram for the March 2020 meeting.

13.3 Agenda item on cross-cutting issues

13.11. In 2015, the Committee agreed to add a new standing agenda item on "Cross-cutting Issues" to its agenda, in order to have a place for all discussions of more general topics that related to the implementation of the SPS Agreement and that did not fit under any other agenda item. This new agenda item was added as of the March 2016 meeting. More generally, the Committee also decided to make additional changes to the structure of the agenda, in order to improve the fluidity of

\textsuperscript{70} For the November 2019 SPS Committee meeting, an annotated agenda was circulated for the formal meeting in document JOB/SPS/3.

\textsuperscript{71} For the November 2019 SPS Committee meeting, an annotated agenda was circulated for the informal meeting in document JOB/SPS/4.
discussions. The new structure for the agenda was first used for the October 2016 Committee meeting.\footnote{WTO/AIR/SPS/12 and WTO/AIR/SPS/12/Rev.1.}

14 REGIONALIZATION (ARTICLE 6)

14.1. Following adoption of the "Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures", the Committee agreed to monitor the implementation of Article 6, on the basis of information provided by Members through notifications and from information presented during SPS Committee meetings, and to revise the guidelines, if necessary in light of experience gained through the implementation of the Agreement and the use of the guidelines themselves. The following six reports have been issued by the SPS Secretariat during the period of this current review: (i) the first one covering the period from June 2013 through March 2014;\footnote{G/SPS/GEN/1333.} (ii) the second one covering the period from April 2014 through March 2015;\footnote{G/SPS/GEN/1412.} (iii) the third one covering the period from April 2015 through March 2016;\footnote{G/SPS/GEN/1491.} (iv) the fourth one covering the period from April 2016 through March 2017;\footnote{G/SPS/GEN/1552 and G/SPS/GEN/1552/Corr.1.} (v) the fifth one covering the period from April 2017 through March 2018;\footnote{G/SPS/GEN/1618.} and (vi) the sixth one covering the period from April 2018 through March 2019.\footnote{G/SPS/GEN/1711.}

14.2. Both the IPPC and the OIE have provided guidance for countries seeking to establish, or to be recognized for, pest- or disease-free status. The IPPC currently has several directly relevant standards: ISPM 4 on requirements for the establishment of pest-free areas; ISPM 10 for the establishment of pest-free places of production and pest-free production sites; ISPM 22 on requirements for the establishment of areas of low pest prevalence; ISPM 26 on the establishment of pest-free areas for fruit flies; ISPM 29 on the recognition of pest-free areas and areas of low pest prevalence; and ISPM 30 on the establishment of areas of low pest prevalence for fruit flies. In addition, IPPC has a number of supporting standards, including guidelines for pest surveillance.\footnote{For more information on the IPPC's work, see Appendix C. The appendices are available via the following link: https://www.wto.org/english/tratop_e/sps_e/tables_e/G_SPS_64_Appendix_A-D.xlsx.}

14.3. The OIE Terrestrial Animal Health Code describes the requirements for obtaining disease-free status including requirements for surveillance and monitoring based on the concept of geographic zones. During its annual General Sessions, the OIE has adopted a number of resolutions related to recognition of disease-free areas. In 2015, the OIE adopted the revised standard on foot and mouth disease. In addition, a specific provision relating to the BSE standard was added to the Terrestrial Code. In 2016, the OIE adopted the amendment of the user guide to clarify that zoning and compartmentalization should be considered as tools to control diseases and to facilitate safe trade; and the addition of "reptiles" to the definition of "animal" in the glossary. In 2017, a major revision of the chapter on African swine fever was adopted.\footnote{G/SPS/GEN/1438.}

14.4. At the October 2015 meeting, the OIE provided information on the relevance of the OIE standards and related procedures in relation to two recent WTO disputes.\footnote{For more information on the OIE's work, see Appendix C. The appendices are available via the following link: https://www.wto.org/english/tratop_e/sps_e/tables_e/G_SPS_64_Appendix_A-D.xlsx.} The United States expressed appreciation for the information provided by the OIE in its document, which illustrated how the OIE's standard setting activities helped resolve trade disputes and facilitate safe trade in live animals and livestock products. The United States highlighted several aspects of the paper that were particularly relevant to the effective functioning of the SPS Agreement. These aspects included, among others: the implementation of adopted standards and participation in the development of these standards; access to expertise and knowledge of scientists from the OIE's global network of reference centres and laboratories; and development of standards and guidance on regionalization.\footnote{WTO/AIR/SPS/12/Rev.1.}

14.5. Argentina and the European Union also extended appreciation for the work of the OIE in establishing standards for animal health and safe trade. The European Union further underscored its commitment to providing financial assistance to the OIE in order to facilitate broad participation of developing countries in the OIE's work. The European Union encouraged Members to use the OIE
standards actively, in particular the standards on regionalization, which facilitated trade by ensuring measures were limited to what was necessary and justified.

14.6. In 2016, the OIE tabled a report\(^{82}\) that related to official disease-free recognition status of member countries for six priority diseases: bovine spongiform encephalopathy (BSE); foot and mouth disease (FMD); contagious bovine pleuropneumonia (CBPP); African horse sickness (AHR); peste des petits ruminants (PPR) and classical swine fever (CSF).\(^{83}\) The OIE highlighted its official endorsement of national disease control programmes currently provided with regard to FMD, PPR and CBPP.

14.7. In 2017, the Committee held a Thematic Session on Regionalization,\(^{84}\) based on a proposal submitted by the European Union.\(^{85}\) The purpose of the thematic session was to provide an opportunity for Members to increase their awareness of regionalization principles, and to learn from each other by sharing experiences about the challenges and benefits, of implementing regionalization in practice from the perspective of an importing, as well as an exporting party. In particular, the thematic session focused on animal diseases. The thematic session benefitted from presentations on the relevant provisions of the SPS Agreement (Article 6), guidelines (G/SPS/48), as well as jurisprudence from recent disputes. In addition, the OIE provided an overview of its standards on zoning and compartmentalization, including implementation challenges and opportunities in applying the regionalization approach.

14.8. Members shared their experiences on the practical implementation of regionalization in dealing with diseases such as highly pathogenic avian influenza, BSE, classical swine fever, as well as more general experiences in applying the regionalization principle. Discussions highlighted the differences in terminology related to regionalization, the importance of ‘peace-time’ agreements and building trust among trading partners, as well as creating regional frameworks for cooperation, among others. In addition, several common weaknesses were identified in the recognition process from the importing Members’ perspective, such as the submission of insufficient data by the exporting Member. In addition, the OIE underscored that reports of avian influenza outbreaks in wild birds should not change a country’s disease status and, as such, should not result in trade restrictions.

14.9. Chile requested clarification on the OIE’s plan for monitoring international standards. The OIE explained that it was still in the early stages of its work with the OECD to develop a framework to monitor the national implementation of OIE standards. Chile also suggested that the Committee organize another thematic session on regionalization with a specific focus on plant health. Several Members supported this suggestion. The United States further suggested developing a deeper exchange with the OIE on a regular basis, as the OIE’s information was so valuable.

14.10. Also in 2017, the United States encouraged Members to actively use the agenda on regionalization to share experiences on challenges encountered and successes achieved in applying the principles of regionalization to facilitate safe trade. It further encouraged Members to strengthen the implementation of regionalization in a manner consistent with Article 6 of the SPS Agreement. The United States proposed: (i) the upcoming Fifth Review of the SPS Agreement as a possible avenue to focus on regionalization; (ii) to further the discussion within the Committee by holding future thematic sessions or workshops to explore aspects of regionalization in greater detail, perhaps with a focus on developing guidance on best practices; (iii) a Thematic Session on Pest-Free Areas in February 2018; and (iv) that Members report on cases where they had successfully applied the concept of regionalization in resolving a specific trade concern. The United States concluded by calling on other Members to provide possible ideas on how to build on the discussion held in July 2017 on regionalization. The United States offered to present a short proposal for the next Thematic Session on Pest-Free Areas for Members’ comments, if there was interest.

14.11. The European Union welcomed the United States proposal and highlighted the importance of continuous work on regionalization, possibly within the framework of the Fifth Review. The European Union considered favourably the proposal to hold a Thematic Session on Pest-Free Areas in February 2018. The European Union was also interested in observing cases where

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\(^{82}\) G/SPS/GEN/1499.

\(^{83}\) A detailed list of countries, including some who had provided reports at the Committee meeting, can be found in Annex 1 of G/SPS/GEN/1499, as well as on the OIE website.

\(^{84}\) The programme is available in document G/SPS/GEN/1567. Presentations from the thematic session are also available at: https://www.wto.org/english/tratop_e/spse/wrkshp11july17_e.htm.

\(^{85}\) The European Union proposal is contained in document G/SPS/W/293.
regionalization had been useful and where it had failed to address trade concerns. With regards to the suggestion on guidance or best practices, the European Union pointed to the existing guidelines on the implementation of Article 6 and enquired about the added value in elaborating on this. Finally, the European Union emphasised the contribution of the relevant international organizations, the OIE and IPPC, on this matter. Chile also supported the US suggestions.

14.12. The OIE provided information on its Scientific Enquiry Commission proposal regarding emergency, preventive and temporary zoning in response to increased disease threats, avoiding unjustified barriers to trade. An ad hoc group had also been established to undertake a review of Chapter 10.4 of the Code on infection with avian influenza viruses. The OIE also provided an update on its new Observatory project which aimed to develop a framework to monitor the progress and constraints faced in the implementation of OIE standards.

14.13. In November 2017, the Committee agreed to hold a Thematic Session on Pest-Free Areas, that was held on February 2018, based on a proposal submitted by the United States (G/SPS/GEN/1593/Rev.1). It provided an opportunity for Members to increase their awareness of IPPC standards on pest-free areas, and to share experiences about the challenges, as well as the benefits, of implementing pest-free areas in practice from the perspective of an importing, as well as an exporting party. This, in turn, would contribute to building confidence among trading partners when recognizing or seeking recognition of pest-free areas. The Secretariat provided an overview of the SPS Agreement (Article 6) and the Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/48), as well as relevant dispute settlement reports from recent disputes. On behalf of the IPPC, a Member presented on the IPPC standards on pest-free areas; factors to consider when establishing pest-free areas; implementation challenges; and information on the IPPC’s Pest-Free Area Project.

14.14. Discussions were also held on the role of dispute settlement panels in assessing the evidence provided by Members in relation to the determination of pest-free areas and on the broad nature of IPPC standards, among other issues. Regional and international perspectives on the establishment of pest free areas were shared by COSAVE and IAEA, respectively. Finally, Members shared their practical experiences on the establishment and maintenance of pest-free areas, as well as the legislative aspects and more general principles related to their implementation. The discussions highlighted the importance of the early detection of pests, the availability of a corrective action plan to deal with outbreaks, and building trust among trading partners.

14.15. Also in 2018, the OIE highlighted the revised chapter of the Terrestrial Code on zoning and compartmentalization, and the revised questionnaires on the procedures for self-declaration and for official recognition of disease status by the OIE. Later in 2018, the OIE highlighted the new procedures for self-declarations of disease freedom by countries and that OIE member countries could also apply for official OIE endorsement of their national control programmes for certain diseases.

14.16. In 2018 and 2019, the Committee discussed several proposals on regionalization that were submitted under the Fifth Review. In 2019, the IPPC reported on an upcoming international symposium on pest-free areas in Japan.

15.1. In the context of the Fourth Review, the United States proposed the organization of a Workshop on Risk Analysis. The United States noted that since the last workshop on this topic in

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86 G/SPS/GEN/1583.
87 The programme is available in document G/SPS/GEN/1596/Rev.1 and the presentations are available at: https://www.wto.org/english/tratop_e/sps_e/wkshop27feb18_e.htm.
88 G/SPS/W/298, G/SPS/W/301, G/SPS/W/303, G/SPS/W/307 and G/SPS/W/311. See the section on regionalization in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposals and the subsequent discussions.
89 The WTO Secretariat participated in this symposium via video conference and delivered a presentation on pest-free areas and the SPS Agreement, including the SPS Committee Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures.
90 G/SPS/W/275.
2000, a significant amount of work must have been carried out by Members and the "Three Sisters". Many Members supported the proposal and proposed that a session on risk communication be included in the programme.

15.2. In 2014, the Committee agreed that risk analysis be the topic of that year's thematic workshop. The Committee also considered South Africa's proposal on risk assessment and the appropriate level of protection (ALOP), submitted in the context of the Fourth Review. One Member proposed that the issue of special and differential treatment should also be taken into account when establishing the ALOP. The Committee agreed to address South Africa's proposal, which consisted of two questions related to the implementation of Article 5.4 of the SPS Agreement, in the context of the Workshop on Risk Analysis. The Workshop on Risk Analysis was held on October 2014. The Secretariat developed a programme for the workshop based on the US proposal and inputs from Members. Over 500 applications for WTO funding were received by the deadline. In selecting 50 participants for WTO funding, priority was given to LDC government officials and those holding responsibilities in the risk analysis area. The workshop provided a platform for discussion, experience sharing and best practices concerning SPS-related risk analysis. Delayed streaming of the workshop was made possible through a partnership with IICA.

15.3. In 2015, the United States presented a submission on possible next steps. Its proposal focused on three key challenges identified by Members at the workshop, and for which further action had been suggested: (i) the need to improve sharing of information related to risk assessment; (ii) the interest from some Members to benefit from assistance of other Members to improve their capacity to perform risk analyses, for instance through a mentoring programme; and (iii) the suggestion to hold an informal session on risk communication prior to the July 2015 meeting of the Committee. The United States also noted the work being carried out in FAO, WHO and the "Three Sisters" on risk assessment and asked the Committee to strengthen its collaboration with these organizations.

15.4. Many Members expressed their general support for the US proposal, indicating that they would need more time to consider all the elements proposed and how they could be implemented in practice. In particular, the proposal to hold a Thematic Session on Risk Communication in July 2015 received broad support. FAO and IPPC expressed interest in participating in the thematic session. FAO also provided information on recent work done in this area, in particular the development of a handbook on risk communication.

15.5. In 2015, the Committee held its first thematic session, on risk communication, as a follow-up event to the 2014 Workshop on Risk Analysis. The thematic session provided the opportunity for Members and relevant international organizations to share experiences and lessons learned in relation to risk communication strategies in the SPS area. In addition, the Secretariat provided the historical context, recalling that when the SPS Agreement was negotiated, the "Three Sisters" had not yet developed clear guidance on the process of risk analysis. However, it had now been widely accepted that the risk analysis process involved risk assessment, risk management and risk communication. Several panellists - representing Codex, OIE, IPPC, FAO, IICA and the United States - responded to a series of questions on the existing guidance in the area of risk communication. In addition, speakers from both developing and developed countries highlighted the specific risk communication strategies that had been employed in response to pressing SPS issues.

15.6. Later in 2015, the United States presented a compendium on practical resources that Members could access on risk communication. Recalling the significant interest in risk communication during the 2014 Workshop on Risk Analysis and the thematic session held in 2015, the United States had compiled a list of useful information and strategies collected from various international organizations, US government agencies and research organizations. In particular, the

91 The programme and presentations from the Workshop on Risk Analysis held in 2000 are available via the following link: http://www.wto.org/english/tratop_e/spse/risk00_e/risk00_e.htm. The report is also available in document G/SPS/GEN/209.
92 G/SPS/GEN/1307.
93 The summary report of the Risk Analysis Workshop was circulated as G/SPS/R/77. The programme (G/SPS/GEN/1336 and G/SPS/GEN/1358), presentations and audio clips from the workshop are available at: https://www.wto.org/english/tratop_e/spse/wkshop_oct14_e/wkshop_oct14_e.htm.
94 G/SPS/GEN/1401.
95 G/SPS/GEN/1405.
96 The programme is available in document G/SPS/GEN/1428. Presentations from the session are also available at: https://www.wto.org/english/tratop_e/spse/wkshop_jul15_e/wkshop_jul15_e.htm.
97 G/SPS/GEN/1456.
United States highlighted a compendium put together by the US National Academy of Science, which looked at factors that influenced how people absorbed information. The United States welcomed further discussions on risk analysis and the sharing of information and experiences.

15.7. In 2016, IICA informed the Committee of the approval of a resolution entitled "Working Group to Improve the Capabilities of the Countries of the Americas for Sanitary and Phytosanitary Risk Assessment" at the 18th meeting of the Inter-American Board of Agriculture (IABA), held in October 2015. IICA planned to establish a working group comprised of relevant regional organizations and also to organize a meeting in Costa Rica to discuss current approaches to risk assessment; national and regional challenges; capacity building needs and risk assessment; and strategies for improving the capacities of member countries and organizations. The result of the meeting would be a document explaining the current state of SPS risk analysis, and areas that need improvement, as well as proposed solutions to address deficiencies. IICA thanked Brazil for its interest and support for the development of this initiative. Brazil thanked IICA for informing the Committee of this initiative to improve the capacity of member countries in the area of SPS risk analysis, and further expressed its full commitment to participate and support the initiative.

15.8. In 2017, the Russian Federation reported on the international conference on Food Safety and Risk Analysis, held on 18-19 May 2017 in Sochi, Russia, jointly organized by the Russian Federation and the FAO. The meeting was attended by 250 representatives from 23 countries, several organizations and representatives of FAO, WHO, WTO and Codex. Leading scientists and experts had presented on the current status and trends in research on food safety. The conference had covered risk assessment, risk management and risk communication, food safety, food contamination and capacity building.

15.9. In 2018, the European Union indicated its commitment to provide financial support to the Codex risk assessment bodies (i.e. JMPR, JECFA and JEMRA), through a grant agreement of EUR 402,000 during the period 2018-2020. The European Union further urged Members and the two parent bodies to consider more sustainable financing mechanisms to fund Codex scientific work, such as funding from the WHO’s core budget. Chile also reiterated the need to secure funding for the risk assessment activities being undertaken, and underscored the importance of Codex and its role in developing international standards in the food safety area.

15.10. Also in 2018, the IPPC reported on its development of guides on pest-free areas and pest risk communication. Codex reported on the decision of the Chairperson of the Codex Committee on Residues of Veterinary Drugs in Food (CCRVDF) not to move the MRLs for Zilpaterol to step 5 for intermediate adoption, despite the completed JECFA risk assessment and Members’ consensus on the science. Codex also reported on the adoption of the Risk Management Recommendation for Gentian violet.

15.11. In 2019, the Russian Federation informed the Committee of the International Conference on Food Safety Risk Analysis and Antimicrobial Resistance, to be held in Moscow on 17-18 December 2019. The aim of the conference, jointly organized with FAO, was to enhance multinational cooperation on food safety, gathering representatives in animal health, public health and food safety sectors to facilitate exchange in experiences and best practices relating to reduction of AMR, assess multifaceted food safety risks, enhance multilateral dialogue and promote partnerships between different stakeholders. In addition, the Dominican Republic highlighted the Risk Analysis Consortium created with the support of IICA (including its SPS Leadership Course) and OIRSA.

15.12. In 2018 and 2019, the Committee discussed the proposals submitted on ALOP, risk assessment and science that were submitted under the Fifth Review. Also in 2019, the STDF informed the Committee of the dialogue in the STDF Working Group about the need for further guidance on risk management at the border. The IPPC reported that two new guides - on pest-free areas and on pest risk communication - were in the final stages of publication. COMESA also reported that several training activities on risk assessment and risk management, responsible use of veterinary products by farmers, and the implementation of national residue monitoring plants were conducted in Rwanda.

98 G/SPS/W/301 and G/SPS/W/308. See the section on ALOP, risk assessment and science in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposals and the subsequent discussions.
16 SPECIAL AND DIFFERENTIAL TREATMENT (ARTICLE 10)

16.1. Special and differential treatment continues to be a standing agenda item, although no Member has raised any specific matter under this agenda subsequent to the Third Review. The Secretariat has kept the SPS Committee informed of discussions in the Committee on Trade and Development Special Session on proposals relating to Articles 10.2 and 10.3 of the SPS Agreement.

16.2. In 2015, Nigeria encouraged Members to discuss the proposals, with regard to the special and differential treatment provisions of the SPS Agreement, submitted prior to the Cancún Ministerial Conference. India asked the Secretariat whether there had been any experience sharing in the implementation of Article 10.1 and 10.2 of the SPS Agreement under this agenda item. The Secretariat indicated that there had been discussions a number of years earlier, and that two documents had resulted from these discussions: the Report on Proposals for Special and Differential Treatment (G/SPS/35); and the Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members (G/SPS/33/Rev.1). Since its adoption, no requests had been submitted under this Procedure.

16.3. The WTO reported on an informal meeting of the Special Session of the Committee on Trade and Development, held on 6 October 2015, which had considered special and differential (S&D) proposals submitted by the G90, including on Articles 10.1 and 10.2 of the SPS Agreement and Article 12.3 of the TBT Agreement.99 The SPS-related proposals referred to: (i) early notification by developed countries of all their SPS and TBT measures; (ii) allowing for longer comment periods before the adoption of a measure; (iii) longer time frames for compliance with SPS measures (at least 12 months) for developing countries, in particular LDCs and SVEs; and (iv) mandatory financial and technical assistance. The Secretariat reported that Members had expressed divergent views on those proposals. Some mentioned relevant SPS Committee work, including the Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members (G/SPS/33/Rev.1). The Secretariat noted that the SPS Committee's Report on S&D Proposals (G/SPS/35), adopted ten years ago, also provided relevant background on the underlying concerns, some of which remained the same.

16.4. In 2017, Nigeria highlighted the importance of the implementation and enforcement of provisions on special and differential treatment in the SPS Agreement, for Africa in general and Nigeria in particular. Nigeria argued that they were placed at a disadvantage because those provisions were not fully enforced. The Dominican Republic echoed Nigeria’s concern and urged Members to take this principle into account when applying new legislation.

16.5. Madagascar also noted the concerns expressed by Members on new regulatory provisions taken by the European Union as well as measures in force on pesticides with endocrine disruptor effects. In view of the complexity of these measures and their impact on its economy, Madagascar requested that the European Union take into consideration the situation of Madagascar in the application of those measures. Pursuant to Articles 9 and 10 of the SPS Agreement, Madagascar requested special and differential treatment together with technical assistance to enable it to set up, at a national level, the necessary measures to bring the country in line with the regulation, including a plan towards the progressive withdrawal of pesticides which would be banned.

17 SPS-RELATED PRIVATE STANDARDS

17.1 Background

17.1. The effects of SPS-related private standards ("private standards") on trade, and the appropriate role of the SPS Committee, has been discussed by the Committee since the issue was first raised in 2005 by Saint Vincent and the Grenadines with regard to EurepGAP (now called GLOBALGAP) requirements on pesticides used on bananas destined for sale in European markets.100 After considerable discussion in the SPS Committee, an ad hoc working group was established to identify "Possible Actions for the SPS Committee Regarding SPS-Related Private Standards".101 At its March 2011 meeting, the Committee endorsed five of the six actions put forward by the ad hoc working group.102 Despite further revision and discussions, consensus was not reached on

99 The proposals are contained in document JOB/DEV/29/Rev.1-JOB/TNC/51/Rev.1.
100 G/SPS/R/37/Rev.1, paras.16-20.
101 G/SPS/W/256.
102 G/SPS/55.
In addition, six other actions were also identified by the working group on which consensus could not be reached. These proposed actions are listed in Annex I of the ad hoc working group report, along with a brief explanation of the main differences of opinion.

17.2. Since 2011, the Committee's discussions on private standards have focused on the five actions agreed by the Committee and, in particular, on Action 1 relating to the development of a working definition of SPS-related private standards.

17.2 Action 1 - Definition

17.3. The Committee discussed a working definition on the basis of draft definitions prepared by the Secretariat drawing on proposals from Members. In 2013, the Committee agreed to form an electronic working group (e-WG), with China and New Zealand as "co-stewards".

17.4. In 2014, following a suggestion by Canada, the Secretariat circulated a note on existing definitions of "private standards" in other international organizations, revised to take into account additional definitions reported by Argentina and Canada at the July 2014 meeting. The co-stewards presented two reports on the work of the e-WG, including proposed working definitions, but no consensus was reached. The Committee agreed to give the co-stewards and the e-WG more time to pursue their efforts in trying to bridge differences and come up with a compromise working definition that could be presented for consideration and adoption by the Committee as soon as possible.

17.5. In 2015, the co-stewards circulated another report on the work of the e-WG. The report detailed the latest round of discussions and e-WG members' concerns, suggestions and flexibilities, and noted that the e-WG, while very close, had not been able to reach consensus on the working definition. There had in particular been an impasse with the terms "non-governmental entities" and "requirements" and the co-stewards had suggested a cooling off period for all e-WG Members to reflect further on the issue.

17.6. Some Members stressed the need to keep working towards a working definition of SPS-related private standards, given their effects on many developing countries' exports and economies. Other Members noted the fundamental differences amongst Members on the scope of the SPS Agreement and regarding some of the suggested language in the definition. Given the obvious impasse, these Members supported the proposal of the co-stewards for a cooling off period. It was agreed that the e-WG would take some time to further reflect, and that the co-stewards, China and New Zealand, would restart work when most appropriate, with the objective of agreeing on a working definition as soon as possible.

17.7. Still in 2015, the co-stewards reported on their consultations with the e-WG following the cooling off period agreed in March 2015. Very limited feedback had been received on how to progress work. Argentina introduced a document regarding discussions on a definition of SPS-related private standards and stressed the need to agree on a definition, given the numerous harmful effects of private standards. Belize also presented a document which proposed a new definition of SPS-related private standards. Members were encouraged to think about new and innovative ways to move forward, including any useful fresh approach. The Chairperson suggested that the e-WG continue its cooling-off period, until new thinking or proposals emerged.

17.8. The Chairperson indicated that three issues - the working definition of SPS-related private standards; the recommendations related to private standards in the Fourth Review Report; and the Committee's future work on that issue - were linked and could only be resolved together.

17.9. During 2016 and 2017, discussions on this subject were mainly held within the context of the adoption of the Report of the Fourth Review (G/SPS/W/280/Rev.2), particularly in relation to

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concerns related to a recommendation on the Committee's future work on private standards.\footnote{110}

17.3 Actions 2 to 5

17.10. Since 2011, the Committee has also discussed the implementation of the other four agreed actions. On Action 2, it was noted that information exchange mechanisms between the SPS Committee and the "Three Sisters" were already in place and functioning. Some Members encouraged Codex, OIE and IPPC to contact the private schemes identified by Members in document G/SPS/GEN/932/Rev.1 to promote the use of international standards, and report back to the Committee on those contacts. Codex provided updates on its work on the issue of private standards, including its discussions on private standards in the framework of Codex regional bodies. Codex also continued to reach out to private standards-setting organizations to encourage them to become Codex observers and take part in Codex meetings. The OIE highlighted steps it had taken to promote compatibility and avoid conflict between private and official standards, and drew attention to the OIE General Assembly's Resolution on Private Standards.\footnote{111} The IPPC noted that it had requested that ISO clarify that there were no obligations to implement ISO standards in order to comply with IPPC standards. Chile also referred to the OIE's cooperation with private standard-setting bodies to ensure that their standards were aligned with OIE standards. Chile also noted that OIE and Codex should increase the participation of private standard-setting bodies as observers in their standard-setting processes. This collaboration would help improve transparency and the implementation of official science-based standards.

17.11. On Action 3, the Secretariat has kept the Committee informed of relevant discussions in other WTO fora, including: (i) the thematic discussion on standards organized during the March 2014 TBT Committee meetings;\footnote{112} (ii) sessions of the 5th Global Review of Aid for Trade; and (iii) various sessions of the 2016 WTO Public Forum.\footnote{113}

17.12. On Action 4, it was noted that useful ideas could be shared amongst Members regarding their efforts to reach out to entities involved in private standard-setting in their territories. China suggested that when communicating with private standard-setting entities, Members make reference to the Code of Good Practice of the TBT Agreement and to the TBT Committee's Decision on the "Six Principles" for the preparation of international standards.\footnote{114} Belize also noted that Action 4 could be enhanced by sensitizing private standard-setting entities to the list of concerns in paragraph 24 under Action 6 of document G/SPS/W/256.\footnote{115} Belize drew Members' attention to its recommendations regarding the implementation of Action 4 in document G/SPS/GEN/1290, and encouraged Members to give those recommendations due consideration. Nigeria noted the difficulties that private standards created for its small exporters and reported on training received from GLOBALGAP.\footnote{116} Nigeria stressed that the SPS Committee had a vital role to play in addressing the issues related to private standards and their impact on international trade.

17.13. Several Members noted the importance of sensitizing private standard-setting entities and actors and reported on efforts undertaken at the national level. Members who were already communicating with private standard-setting entities in their territories were encouraged to share their experiences in that regard. The Philippines reported on regional and national briefing sessions jointly organized by the Department of Agriculture and the United Nations Forum on Sustainability Standards (UNFSS). China referred to its submission (G/SPS/GEN/1261) on Action 4, and noted that some Members were already communicating with private entities in their territories involved in the development, application and certification of private standards.

\footnote{110} Following a proposal from the United States (G/SPS/W/291) in March 2017, and subsequent discussions among Members, the specific recommendation was replaced by descriptive text explaining the nature of the disagreement. At its July 2017 meeting, the Committee agreed on the inclusion of new language in section 14 of the Report, as circulated in document RD/SPS/15, and adopted the Fourth Review Report (G/SPS/62).
\footnote{111} G/SPS/GEN/1024.
\footnote{112} JOB/TBT/41/Rev.1, JOB/TBT/42 and JOB/TBT/42/Corr.1, and G/TBT/GEN/144 and G/TBT/GEN/144/Add.1.
\footnote{114} G/SPS/GEN/1024.
\footnote{115} G/SPS/GEN/1261.
\footnote{116} G/SPS/GEN/1290.
\footnote{117} G/SPS/GEN/1398.
17.14. The Dominican Republic referred to its notification G/SPS/N/DOM/51 regarding the requirement for all enterprises certifying compliance with Good Agricultural Practices to register with the Department of Food Safety of the Ministry of Agriculture.

17.15. On Action 5, the Secretariat referred to various relevant examples relating to the collaboration between the SPS Committee and the "Three Sisters" to develop and/or disseminate informative materials on the importance of international standards. In particular, the Secretariat highlighted: (i) the usefulness of the STDF film on Trading Safely; (ii) the joint regional SPS workshops with the "Three Sisters"; as well as (iii) the development of a new e-learning module with the Inter-American Development Bank.

17.16. The IPPC noted that all IPPC communications, including its standards, were available in its six official languages. The IPPC continued to raise the awareness of its members on the issue of private standards, and would address any future appearance of private standards in the plant health area. The OIE noted that all its publications were available in its three official languages and that any further translation, while encouraged, was at the discretion of the end-user. The OIE also noted that it constantly emphasized the importance of adopting and adhering to international standards. Some Members noted the importance of increased awareness about the operations of private standard-setting bodies, and referred to the OIE resolution guiding OIE's relations with private standard-setting bodies. The collaboration of both Codex and OIE with private standard-setting bodies was encouraged in order to foster the development and implementation of science-based food safety and other standards, whether official or private. It was further suggested, in particular by Argentina, that Codex, OIE and IPPC liaise directly with the various private schemes identified by Members in document G/SPS/GEN/932/Rev.1. Such contact could then inform the efforts of the "Three Sisters" in developing and/or disseminating materials underlying the importance of international standards. The Secretariat noted that this suggestion had been reflected in the relevant Chair summaries, which in turn were reflected in the Secretariat's regular reports on relevant Committee activities, including the consideration of private standards, to the IPPC's CPM, the OIE World Assembly of Delegates and the Codex Alimentarius Commission.

17.17. Codex also reported on its continued effort to underline the importance of implementing international standards and on its communication strategy to show the positive impact of applying Codex standards. Codex also noted the cooperation of the OIE and IPPC in that regard.

17.18. Regarding other information on SPS-related private standards, Belize reported on the 19th session of the Joint FAO/WHO Coordinating Committee for Latin America and the Caribbean held in Costa Rica in November 2014. Belize referred Members to paragraphs 161 to 166 of Codex document REP/15/LAC for further details of the discussions and of the recommendations made at the meeting.

17.19. The OECD flagged its upcoming report on voluntary environmental standards which focused on the linkages between voluntary (often private) environmental standards and public policies.\textsuperscript{117}

17.4 Other suggested actions

17.20. The Committee also discussed how to address the seven outstanding proposed actions on which consensus had not been reached. Some Members suggested moving forward on outstanding Actions 6 to 12 through a voluntary working group. However, other Members indicated that they were not prepared to work on those actions where there had been no consensus.

17.21. Regarding Action 6, some Members were of the view that private standards are outside the scope of the SPS Agreement and thus related information exchanges should take place on the margins of the Committee meetings. Others, however, believed that private standards did fall within the jurisdiction of the SPS Committee and that information exchange on these issues should be on the agenda of the Committee.

17.22. Belize drew Members' attention to document G/SPS/GEN/1291, which flagged the need to consider Actions 6 to 12 in parallel with those in document G/SPS/55, and which also provided specific recommendations for the implementation of Actions 10 and 11. Belize also noted that IICA’s report on private food standards in the Southern Cone (G/SPS/GEN/1100) contained several recommended actions for the Committee and/or governments to address concerns associated with SPS-related private standards. With regards to Action 10, Belize encouraged Members to review the

\textsuperscript{117} G/SPS/GEN/1399.
TBT Code of Good Practice and determine its applicability for the implementation of the action. On Action 11, Belize encouraged Members liaising with entities involved in private standards to share their experience with the Committee as the approaches used could be considered in the implementation of Action 11. Belize supported by several Members, expressed concerns regarding the proliferation of private standards and how these affected market access and stressed the relevance of addressing the issue of private standards in the SPS Committee.

17.5 Other activities in relation to private standards

17.23. On other matters related to private standards, Belize registered its concern regarding the evolution in food safety certification requirements, as governments were responsible for setting SPS measures, with guidance from international standards. Belize noted that a country’s appropriate level of protection should not be set by the private sector, and stressed that the SPS Committee had a vital role to play in addressing the issues related to private standards and their impact on international trade. Belize also reported on an UNEP regional capacity building workshop on food waste and noted that data from pilot studies showed significant losses being incurred by producers due to overly stringent food safety requirements. Belize reported that UNEP was communicating with retailers on the impact of stringent requirements, and the related food wastage, with the hope that they applied requirements only to the extent necessary.

17.24. In 2014, the ITC presented the most recent version of its online "Standards Map", an interactive web-tool which provides information on over 130 private and public voluntary standards, across 700 different criteria of analysis. The ITC confirmed that the terminology of "voluntary standards" and the schemes identified in the Standards Map encompassed both government and private voluntary standards, but these could be separated through a dedicated search. In relation to the concern expressed about the multiplication of testing and costs for producers, as well as the proliferation of private schemes, ITC confirmed that it had been consulted by ISEAL and GIZ regarding the development of a Sustainability Standards Comparison Tool. The tool was being developed and should be piloted by the end of 2014.

17.25. Some Members also provided other information under the agenda item on private and commercial standards. In July 2016, China reported that it was in the process of drafting a paper on 'Best Practice Guidelines regarding Private Standards' and invited interested Members to contribute. Some Members welcomed China's proposal, while others queried China's interpretation of Article 13, and also whether drafting a paper on best practices was the best means of advancing work.

17.26. In November 2017, Belize informed the Committee of its participation in a government to government meeting held in Texas, United States in February 2017, with the support of FAO. At this meeting, Belize delivered an intervention on "Existing models of collaboration between public and private sectors and the risk of obfuscating roles in the governance of food safety". Subsequent discussions had highlighted some examples of the successful use of third-party certification schemes to complement the work of governments in ensuring food safety. Belize suggested that the Committee could benefit from similar discussions, either through a workshop or thematic session, where Members could volunteer to share their diverse perspectives and experiences. Some Members expressed their willingness to consider the suggestion of the thematic session, subject to views from their capitals, and without prejudice to their previously stated positions on private standards.

17.27. In July 2018, Belize informed the SPS Committee of its participation in government to government, and government to business meetings held in Japan in March 2018, with the support of FAO. On the margins of the Food Safety Conference, Belize expressed its concerns on issues related to private and commercial standards, and their negative impact on exporting companies in Belize. Belize stated that since concerns with private and commercial standards had first been raised in the SPS Committee in 2005, the following points had been noted by the private sector: (i) audits to maintain certification continued to be done annually by the certification bodies; (ii) audits by buyers were now at an average of two per annum; (iii) financial costs associated with the audits continued to be the sole responsibility of the exporting company; (iv) the scientific basis for some

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118 G/SPS/GEN/1291.
119 G/SPS/GEN/1340.
120 G/SPS/GEN/1374.
121 International Social and Environmental Accreditation and Labelling Alliance (ISEAL); and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).
122 G/SPS/GEN/1592.
requirements continued to be lacking; and (v) MRLs and limits for microbiological contaminants were still not aligned with those of Codex.

17.28. Belize referred to the Committee Decision on "Actions Regarding SPS-Related Private Standards", as contained in G/SPS/55, and encouraged Members to: (i) continue discussions with the certification programme owners and buyers in order for them to understand the impact of their requirements; (ii) advise certification programme owners and buyers on the importance of basing SPS requirements on science and applying them only to the extent necessary; (iii) encourage participation in the Codex standard-setting process so as to assist certification programme owners and buyers to align their requirements; and (iv) encourage the provision of technical support, especially to those developing countries where the standards were being applied and exporters were most negatively affected.

17.29. Finally, Belize reminded Members of the legal obligations contained in Article 13 of the SPS Agreement, and in particular drew Members' attention to the second and third sentences of Article 13. Belize further expressed a need for the development of guidelines for the implementation of Article 13, especially given the increased role of the private sector, and urged the Committee to make an effort to initiate work in that regard. Belize also noted the work being undertaken in the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) on "Guidance for Authorities to Assess Third Party Assurance and its Potential to Inform National Food Control System Planning", indicating its hope that this would serve as a catalyst to advance the Committee's work and influence the development of guidelines for the implementation of Article 13.

17.30. Argentina and Brazil expressed their interest in the topic. Argentina further indicated that it would carefully assess the points made by Belize. Ecuador recalled that the Committee's discussions on private standards had continued for some time and that document G/SPS/55, which had been adopted by the Committee in March 2011, continued to apply. Ecuador further noted that the application of standards and measures by private entities could have a disproportionate effect on trade for goods produced and exported by developing countries. Ecuador indicated that it continued to be interested in discussing this topic in the Committee in order to reach an agreement on the best way to regulate these types of standards and to ensure compliance with Article 13 of the SPS Agreement.

17.31. In 2018 and 2019, the Committee discussed proposals submitted by Belize for the development of guidelines for implementation of Article 13, and on voluntary third-party assurance schemes.

18 TECHNICAL ASSISTANCE AND TRAINING ACTIVITIES (ARTICLE 9)

18.1 Technical assistance

18.1. Technical assistance is a standing agenda item. At each regular meeting, Members and Observers are invited to identify any specific technical assistance needs which they may have, and/or to report on any SPS-related capacity building activities in which they are involved.

18.2. A number of Members have used the occasion of the SPS Committee meetings to comment on particular projects or activities that have enhanced their capacity to implement and benefit from the SPS Agreement. Some Members provide periodic updates regarding their SPS-related technical assistance activities, in particular Australia, Canada, the European Union, Japan and the United States.

18.3. In 2016, Australia provided information on its technical assistance to developing countries from July 2013 to June 2015. The aggregate value of the official development technical assistance during the reporting period exceeded AUD 35 million. In 2019, Australia further reported on the technical assistance provided to developing countries between 1 July 2015 and 30 June 2017. The
aggregate value of the official development technical assistance provided exceeded AUD 46 million and, Australia also provided substantial additional in-kind contributions.\textsuperscript{127}

18.4. In 2017, the European Union reported on its SPS-related activities during the period 2015-2016.\textsuperscript{128} In 2020, the European Union provided information for the period 2017-2018.\textsuperscript{129} In total, over 500 projects were fully, or partially, devoted to SPS technical assistance. The document also included contributions made to the "Three Sisters" and the STDF.

18.5. Japan informed the Committee about its SPS-related technical assistance provided over several periods. More recently, the total value of the assistance provided for the Japanese fiscal year 2018 amounted to approximately JPY 630 million (USD 5.7 million), with an accumulated amount of Japanese assistance since 1 April 2009 of approximately JPY 6.8 billion (USD 61 million).\textsuperscript{130} In total, 81 relevant programs had been undertaken since 1 April 2009, to more than 50 countries in various regions, including Asia, the Pacific Region, Central America, South America, Central Asia, and Africa. This assistance had been carried out by the Japan International Cooperation Agency (JICA).

18.6. Canada provided an overview of its technical assistance activities delivered to developing countries.\textsuperscript{131} Canada indicated that it had delivered or initiated 19 SPS-related technical assistance projects in 2018, targeting 21 countries in various geographic regions and amounting to approximately USD 7.99 million. This assistance addressed three of the four broad categories included in G/SPS/GEN/206, namely: information, training, and 'soft' infrastructural development.

18.7. The United States also reported on its sponsored technical assistance provided to developing and newly acceding countries to support their implementation of the SPS Agreement, from October 2014 to September 2016;\textsuperscript{132} and October 2016 to September 2018.\textsuperscript{133} The United States highlighted various bilateral and regional capacity building activities, and indicated its commitment to provide demand-driven, results-oriented and sustainable programmes. The United States further welcomed input on the type of projects that would be of interest to Members, and looked forward to continuing its capacity building efforts, and cooperating with the STDF on cross-cutting SPS programmes.

18.8. In addition, other Members provide such information on an ad hoc basis. For example, in 2017, Burkina Faso, Chile, the Gambia, Madagascar, Mozambique, Nigeria, Paraguay, Senegal, Togo and Zambia provided technical assistance-related information. In 2018, Belize, Japan, Madagascar, Nigeria and Senegal provided information, and in 2019, Burkina Faso, Chile, and Senegal also informed the Committee on technical assistance-related activities.

18.9. The WTO Secretariat, as well as observer organizations,\textsuperscript{134} also regularly report on their assistance activities. WTO’s technical assistance activities in the SPS area increase participants' awareness about rights and obligations under the SPS Agreement and its implications at the national level. In the organization of SPS technical assistance activities, the levels of familiarity with the Agreement and advancement in its implementation are taken into consideration to meet and respond to individual country/regional needs. The programmes of national/regional activities include presentations on the transparency obligations, dispute settlement, implementation problems, specific trade concerns and technical/scientific issues such as risk analysis and equivalence, as well as the work undertaken by the "Three Sisters".

18.10. Each year, a three-week advanced course on the application of the SPS Agreement provides in-depth and "hands-on" SPS training, where at the end of the course participants must elaborate an 'action plan' to address identified SPS needs in their countries. Progress on the implementation of the action plans is then monitored through periodic reporting and is presented at an eight-day

\textsuperscript{127} G/SPS/GEN/717/Add.6.
\textsuperscript{128} G/SPS/GEN/1139/Add.4.
\textsuperscript{129} G/SPS/GEN/1139/Add.5.
\textsuperscript{130} G/SPS/GEN/1160/Add.7. See also earlier versions of G/SPS/GEN/1160.
\textsuperscript{131} G/SPS/GEN/1384 and G/SPS/GEN/1738.
\textsuperscript{132} G/SPS/GEN/181/Add.12.
\textsuperscript{133} G/SPS/GEN/181/Add.13.
\textsuperscript{134} Contributions made by observer organizations between 2014 and 2019 are listed in Appendix C. The appendices are available via the following link: \url{https://www.wto.org/english/tratop_e/sps_e/tables_e/G_SPS_64_Appendix_A-D.xlsx}.  

follow-up session the subsequent year. The Secretariat also offers an E-Learning Course on the SPS Agreement. A revised version of the Course will be available soon.

18.11. Since 2010, Members have been informed at the beginning of each year of all SPS-related planned technical assistance activities and interested officials are invited to submit applications for specific events. The latest revision of G/SPS/GEN/997 contains all the detailed information on eligibility criteria, deadlines, funding, pre-requisites and application processes. Since 2013, an online application form has been used to solicit applications for SPS technical assistance activities.

18.12. In 2016, the Secretariat informed Members of its new approach to deliver more effective and demand-driven regional workshops, which would entail working collaboratively with regional organizations to address SPS-related training needs identified within various regions. Using this approach, the WTO Secretariat would schedule regional SPS workshops upon request from regional organizations, or from a Member in conjunction with a regional organization. Programmes, prerequisites and selection criteria would be defined for each requested activity. Since 2016, regional SPS workshops have been organized using this approach.

18.13. Every year, the Secretariat organizes a thematic workshop held back-to back with one of the meetings of the SPS Committee. In addition, the SPS Committee holds thematic sessions on topics of relevance to the Committee, as necessary, throughout the year. Table 1 summarizes the thematic sessions and workshops carried out during the period under Review (i.e. January 2014 to December 2019).

Table 1: Overview of thematic sessions and workshops (2014-2019)

<table>
<thead>
<tr>
<th>Year</th>
<th>Thematic workshops</th>
<th>Thematic sessions</th>
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<tbody>
<tr>
<td>2014</td>
<td>• Workshop on Risk Analysis</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>• Workshop on Transparency</td>
<td>• Thematic Session on Risk Communication</td>
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</tbody>
</table>
| 2016 | • Workshop on Pesticide Maximum Residue Levels (MRLs) | • Thematic Session on Notification of Trade-facilitating SPS Measures  
• Thematic Session on Regionalization |
| 2017 | • Workshop on Transparency |  |
| 2018 | • Workshop on Control, Inspection and Approval Procedures | • Thematic Session on Pest-Free Areas  
• Thematic Session on Equivalence (Part 1) |
| 2019 | • Workshop on Transparency and Coordination | • Thematic Session on Equivalence (Part 2)  
• Thematic Session on Fall Armyworm  
• Thematic Session on Approval Procedures |

18.14. In 2014, the Secretariat organized a Workshop on Risk Analysis. This workshop was based on a proposal submitted by the United States, in the context of the Fourth Review. The United States had proposed that the Committee should organize a workshop on decision making and communication during the risk analysis process to build upon the previous workshop held in 2000. The workshop also addressed South Africa’s proposal, which consisted of two questions related to the implementation of Article 5.4 of the SPS Agreement.

18.15. In 2015 and 2017, the Secretariat organized interactive "hands-on" workshops on the transparency provisions of the SPS Agreement. The participation of officials from Members’ SPS Enquiry Points and Notification Authorities was particularly encouraged in these training workshops.

18.16. In 2016, the Secretariat organized a Workshop on Pesticide Maximum Residue Levels (MRLs).

135 More information on these training tools and materials is available on the SPS webpage (http://www.wto.org/sp).
136 This application form is accessible via a web link, which is included in the latest revision of G/SPS/GEN/997.
137 In order to provide a general overview of the various topics that have been discussed in Committee-related activities during the period, Table 1 includes information on thematic sessions, although this type of activity is not strictly linked to technical assistance.
138 See section 15 for further information on the Thematic Workshop on Risk Analysis.
139 See G/SPS/W/275.
140 See G/SPS/GEN/1307.
141 See section 19.5 for further information on the 2015 and 2017 Workshops on Transparency.
142 See section 12.1 for further information on the 2016 Workshop on Pesticide Maximum Residue Levels (MRLs).
18.17. Members submitted various proposals for the topic of the July 2018 workshop: (i) Private and commercial standards (G/SPS/GEN/1592); (ii) Control, inspection and approval procedures (i.e. Annex C of the SPS Agreement); and (iii) Export certification. Several Members expressed their support for the topic of control, inspection and approval procedures (i.e. Annex C of the SPS Agreement). Some Members indicated interest in the topic of export certification and further suggested including export certification as one of the sessions in the workshop. The Thematic Workshop on Control, Inspection and Approval Procedures (Annex C) was held on 9-10 July 2018.143

18.18. In June 2019, the Secretariat organized a Thematic SPS Workshop on Transparency and Coordination.144

18.19. Also in 2019, Canada proposed to hold a Thematic Session on Approval Procedures145, building upon the 2018 SPS Committee Workshop on Control, Inspection and Approval Procedures (Annex C). The Thematic Session on Approval Procedures was held in November 2019.146

18.2 Technical assistance statistics

18.20. The Secretariat reports annually on all SPS-related technical assistance activities provided by the WTO Secretariat since September 1994.147 For the period 1994 to 2019, the WTO Secretariat has undertaken a total of 396 technical assistance activities on the SPS Agreement, including 95 regional (or sub-regional) and 183 national seminars. Table 2 provides information about the number of sub-regional and national activities per year since the last review of the operation and implementation of the SPS Agreement. Table 3 shows the overall number of activities per region since 1994.

Table 2: Number of SPS technical assistance activities provided by the Secretariat between January 2014 and December 2019

<table>
<thead>
<tr>
<th>Year</th>
<th>National Seminar</th>
<th>(Sub)Regional Workshop</th>
<th>Other</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>2014</td>
<td>14</td>
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<tr>
<td>2018</td>
<td>10</td>
<td>3</td>
<td>4</td>
<td>17</td>
</tr>
<tr>
<td>2019</td>
<td>8</td>
<td>0</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>Total</td>
<td>66</td>
<td>14</td>
<td>47</td>
<td>127</td>
</tr>
</tbody>
</table>

Table 3: SPS technical assistance activities per region (1994-2019)

<table>
<thead>
<tr>
<th>Region</th>
<th>National Seminar</th>
<th>(Sub)Regional Workshop</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>57</td>
<td>29</td>
<td>21</td>
<td>107</td>
</tr>
<tr>
<td>Arab and Middle East Countries</td>
<td>18</td>
<td>10</td>
<td>5</td>
<td>33</td>
</tr>
<tr>
<td>Asia and the Pacific</td>
<td>41</td>
<td>19</td>
<td>22</td>
<td>82</td>
</tr>
</tbody>
</table>

143 See section 3 for further information on the 2018 Thematic Workshop on Control, Inspection and Approval Procedures (Annex C).

144 See section 19.5 for further information on the 2019 Thematic SPS Workshop on Transparency and Coordination.

145 G/SPS/W/310.

146 See section 3 for further information on the Thematic Session on Approval Procedures.

147 G/SPS/GEN/521, latest revision.
18.3 The Standards and Trade Development Facility (STDF)

18.21. The STDF is a global partnership that helps developing countries improve their food safety, and animal and plant health capacity to meet SPS requirements for trade that are based on international standards. The STDF contributes to broader sustainable development goals, such as enhanced economic growth, poverty reduction and food security. Established by the UN Food and Agriculture Organization, the World Organisation for Animal Health, the World Bank Group, the World Health Organization and the WTO, the STDF is financed by voluntary contributions. It provides a platform that brings together stakeholders from across agriculture, health, trade and development to discuss SPS capacity building needs, share experiences and good practice, and leverage additional funding. In addition, the STDF provides seed funding to beneficiaries for the development and implementation of collaborative and innovative SPS projects, with the potential to influence and catalyse SPS improvements. The WTO houses the Secretariat and manages the STDF trust fund.149

18.22. From 2014-2019, the STDF organized several thematic events on the margins of the SPS Committee to provide information to Members on several cross-cutting SPS issues. A list of STDF thematic sessions from 2014-2019 can be found below.

| Implementing SPS Measures to Facilitate Safe Trade | Presentation of preliminary findings and recommendations of three regional studies conducted in Africa, Asia and Latin America related to the implementation of SPS measures to facilitate safe trade, with a focus on Article 8 and Annex C of the SPS Agreement (Control, Inspection and Approval Procedures). |
| March 2014 | http://www.standardsfacility.org/facilitating-safe-trade |
| Prioritizing SPS Investments for Market Access (P-IMA) | Information session on the P-IMA framework, its guiding principles and the new User Guide, as well as experiences and results of its application in several countries. |
| March 2016 | http://www.standardsfacility.org/prioritizing-sps-investments-market-access-p-ima |
| Electronic SPS Certification | Information session to raise awareness of the opportunities and the challenges related to the implementation of electronic SPS certification systems, mainly in developing countries. |
| June 2016 | http://www.standardsfacility.org/SPS-eCert |
| Options, costs and the feasibility of foot-and-mouth disease control in the context of livestock trade | Information session to present findings on the costs, benefits and feasibility of the following studies: ▪ Feasibility of establishing a fresh meat producing compartment in Zimbabwe (STDF/PPG/550) ▪ Cost-Benefit Analysis for establishing a Foot-and-Mouth Disease Free Zone or Compartment in Tanzania (STDF/PPG/516) |
| Strengthening the control of transboundary animal diseases in Cameroon | Information session to present outputs, impact and recommendations of the STDF project on the development of strategies to combat and control four animal diseases which affect livestock production in Cameroon (STDF/PG/336): (i) foot and mouth disease; (ii) peste des petits ruminants; (iii) African swine fever; and (iv) Newcastle disease. |

148 This category also includes the Advanced SPS Course.
149 More information on the STDF and its activities, including projects and project preparation grants, is available on the STDF website (http://www.standardsfacility.org). Members can also subscribe to the STDF mailing list to receive news on relevant activities.
18.23. From 2014-2019, the STDF developed and launched two short films which were shown to the SPS Committee: "Safe Trade Solutions" and "Cocoa: a Sweet Value Chain". The first film looks at what Chile, Colombia and Peru have done to enable trade to flow faster across borders, while also ensuring the safety of imported food and preventing the entry of pests or diseases. The second one showcases how in today's global value chain, sanitary and phytosanitary capacity helps to make sure that cocoa plants are free from pests and diseases and that chocolate is safe for consumers. Both films along with other STDF-related videos can be found on the STDF YouTube channel.  

18.24. As part of its role to share available know-how and SPS-related good practice, the STDF regularly issues briefing notes on issues of interest. Between 2014-2019, the STDF released briefing notes on the following topics:

<table>
<thead>
<tr>
<th>Topic</th>
<th>Date</th>
<th>Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enhancing SPS capacity to promote trade for development in LDCs</td>
<td>March 2016</td>
<td><a href="http://www.standardsfacility.org/sites/default/files/STDF_Briefing_note_12_EN.pdf">http://www.standardsfacility.org/sites/default/files/STDF_Briefing_note_12_EN.pdf</a></td>
</tr>
<tr>
<td>Partnering with the private sector: Delivering SPS outcomes</td>
<td>February 2017</td>
<td><a href="http://www.standardsfacility.org/sites/default/files/STDF_Briefing_Note_15.pdf">http://www.standardsfacility.org/sites/default/files/STDF_Briefing_Note_15.pdf</a></td>
</tr>
</tbody>
</table>

150 https://www.youtube.com/c/STDFvideos.
18.25. In 2016, the STDF began focusing on increasing the use of electronic SPS certificates, in the context of paperless trade and the WTO Trade Facilitation Agreement. In 2019, the STDF Working Group created an SPS eCert advisory committee which currently consists of 11 relevant international organizations. Its objective is to exchange information on relevant eCert initiatives, facilitate linkages and synergies among these initiatives, and to maximize outputs and avoid duplication of efforts.

18.26. In 2018, the STDF initiated work on creating a guidance document and practical checklist on the use of Good Regulatory Practice (GRP). This work aims to provide guidance for developing countries to ensure that SPS measures are "fit for purpose" and that they avoid the creation of non-tariff barriers. It will seek to identify good practices and recommendations to enhance the development and implementation of SPS measures. It will aim specifically to: (i) strengthen the effectiveness of regulatory interventions; (ii) increase use of international standards and implementation of the SPS Agreement; and (iii) ensure health protection while facilitating trade. A peer review group of STDF members and relevant organizations (including OECD) is supporting this work. The Secretariat aims to present this work on the margins of a Committee meeting in 2021.

18.27. From 2014-2019, the STDF continued to help developing countries in SPS planning and decision-making through application of the P-IMA framework. P-IMA is an evidence-based approach to inform and improve SPS planning and decision making, including mobilization of additional resources for SPS investments. P-IMA encourages public-private dialogue, boosts transparency and accountability, and improves the economic efficiency of investment decisions.

19 TRANSPARENCY (ARTICLE 7 AND ANNEX B)

19.1 Online systems

19.1. Up-to-date information on SPS notifications, as well as Committee documents, specific trade concerns and Members' National Enquiry Points and Notification Authorities continues to be available electronically via the SPS Information Management System (SPS IMS). This facilitates the conduct of searches according to specific needs and interests (product codes, geographic groups, etc.) and also the preparation of reports and summaries which can be shared with interested stakeholders.

19.2. In March 2017, the Secretariat launched the new versions of the SPS Information Management System (SPS IMS) and the Notification Submission System (SPS NSS). This formed part of a two-phase IT project to modernize the SPS IMS and NSS, which began in early 2015. In the first phase, the SPS NSS was developed and tested by a group of Members. During the 2015 October Workshop on Transparency, the Secretariat presented the improved online SPS NSS. Participants also had the opportunity to use a pilot version of the new system in a hands-on exercise. The second phase, which began in early September 2016, focused on enhancements to the SPS IMS, and the same pilot group was invited to test the new SPS IMS, along with a few new added volunteer Members. This second phase also included verifying the interoperability of the IMS and NSS applications.

19.3. The new systems are more user-friendly, correct "bugs" in the previous systems, and are based on updated technology in line with other in-house applications such as I-TIP and the TBT NSS. In particular, the new NSS also supports rich text format, which was a major limitation of the previous system for some Members. Several Members highlighted the advantages of using the online notification system, such as reducing errors and time required to fill-in and submit notifications.

19.4. In November 2016, the ePing notification alert system was officially launched, the result of a tripartite cooperation between the UN Department of Economic and Social Affairs (UNDESA), the WTO and the International Trade Centre (ITC). UNDESA built the pilot version of ePing as part of a trade capacity building project for least-developed countries. The WTO managed the depository of the SPS and TBT notifications, and ITC brought significant experience in developing and maintaining online trade-related tools, targeted mainly at SMEs, and hosting the IT infrastructure and


development. The tripartite cooperation was formalized through a memorandum of understanding, signed by the heads of the three organizations. The objective of this collaboration was to offer a publicly available, reliable, timely and sustainable service that would provide access to SPS/TBT notifications and that would facilitate dialogue amongst the public and private sector in addressing potential trade problems at an early stage.

19.5. Several Members thanked the Secretariat and indicated the need to ensure that there was appropriate capacity building so that Members would be able to use the new systems. Various suggestions were made to improve the features of the IMS and NSS, including a country-specific graphing tool to display notifications or STCs in the IMS.

19.6. In November 2019, a series of significant enhancements to ePing was completed, with close collaboration between WTO, ITC and UNDESA. The enhancements include a more dynamic and user-friendly homepage/search page and an enhanced platform for Members to share follow up information on notifications, both at the national and international level.153

19.7. Also in 2019, the 2011 edition of the Procedural Manual for NNAs and NEPs was revised to incorporate the improved SPS NSS and IMS platforms and the new ePing alert system, as well as other general updates. Ms Sally Jennings from New Zealand, the original author of the manual, assisted in preparing the new revision. Burkina Faso, Chile, the Democratic Republic of Congo, Jordan, Madagascar and New Zealand submitted case stories for the Manual. The Secretariat also drew the Committee's attention to the suggested change in the title of the manual from "Procedural Step-by-Step Manual for SPS NNAs and NEPs" to "Practical Manual for SPS NNAs and NEPs". In addition, the Secretariat prepared a brochure providing an overview of the transparency tools detailed in the Practical Manual (i.e. SPS IMS, ePing, Documents Online, e-subscription, and the SPS NSS).154

19.8. Detailed user guides for the SPS NSS and IMS are also currently under preparation. These guides will be shared with Members before being published on the transparency toolkit link of the SPS Webpage.

19.9. Also in 2019, the WTO Secretariat updated Members on the eAgenda project launched at the end of 2018, supported by the WTO Information Technology Solutions Division (ITSD) and carried out for both the TBT and SPS sections. eAgenda was the development of an online platform to help Members add interventions under any agenda item, including raising and supporting STCs, and to access the whole agenda ahead of SPS and TBT Committee meetings. Access to the platform would be restricted to Members. eAgenda built upon the existing tools for the online submission of notifications (SPS NSS and TBT NSS); and the online information management systems (SPS IMS and the TBT IMS).

19.10. In addition, the Secretariat explained that the pilot phase of the SPS platform was planned for the March 2020 Committee meeting and Members were invited to contact the Secretariat to express interest in participating in the pilot test.155 The Secretariat underlined that the eAgenda platform could be used to prepare an annotated agenda and invited Members' comments on the proposal to produce an annotated agenda instead of a convening airgram in the future. No Member raised any concerns.

19.11. A detailed user guide for the eAgenda is also currently under preparation and will be shared with Members before being published on the transparency toolkit link of the SPS Webpage.

19.2 E-mail lists

19.12. At the end of November 2017, the two e-mailing lists managed by the SPS team, one for notifications and another for unrestricted documents, were discontinued. Members continue to receive SPS documents through the new e-Subscriptions service. Access to this new service is restricted to delegates, who can obtain credentials though the delegation coordinator at their Geneva
Mission. Alternatively, SPS documents and notifications are available through WTO Docs Online or the SPS IMS. Additionally, it is possible to receive alerts on new SPS and TBT notifications through the ePing alert system.

19.13. On 1 December 2019, the hosting services provided by UNICC for the SPS mailing list were discontinued and a new distribution list was created for the purposes of sending SPS-related information. Delegates covering SPS matters, as well as representatives from international organisations, were invited to register through a weblink (https://wto.formstack.com/forms/spslist) in order to continue to receive relevant information via e-mails from the Secretariat.

19.3 "Technical Revision" of the Recommended Transparency Procedures (G/SPS/7/Rev.3)

19.14. In November 2017, the Secretariat announced a "technical revision" of the Recommended Transparency Procedures; document G/SPS/7/Rev.3. The current version of the document contained outdated references to the online tools (SPS NSS, SPS IMS), other websites and outdated notification templates which were no longer in use since the WTO had updated its document formats in 2013. It also contained references to outdated practices for submitting notifications, for example by regular mail, or by fax. The revised version of the document was circulated after the SPS Committee meeting for comments by Members. No substantive changes to the Recommended Procedures were made, although the revised document now included the text and the notification format from the Procedure to Enhance Transparency of Special and Differential Treatment in favour of Developing Country Members, in order to consolidate all notification recommendations into one document. The Secretariat suggested a timeline for Members to comment on the proposed changes before the finalization of the revised document.

19.15. Following the submission of comments by Members, the document was finalized and circulated in June 2018 as G/SPS/7/Rev.4.

19.4 Update on implementation of transparency provisions

19.16. Managing information on transparency remains challenging for many developing country Members, and many have flagged their need for assistance and support to resolve their individual transparency difficulties, for example with the process of sending notifications to the WTO. Other difficulties faced by developing country Members relate to the operation of their SPS National Notification Authority and their National Enquiry Point(s). In addition, the importance of Members updating information on their Enquiry Points and Notification Authorities was highlighted, as it assisted the process of communicating with trading partners.

19.17. The Secretariat also continues to provide annual updates on the level of implementation of the transparency provisions of the SPS Agreement; the latest was issued in October 2019. As of 31 December 2019, Members had submitted 17,253 regular notifications and 2,259 emergency notifications (plus related addenda and corrigenda). The Committee has also previously adopted a special format and recommended procedures for the notification of determination of the recognition of equivalence of sanitary or phytosanitary measures, now included in the transparency procedures. Furthermore, the Secretariat has previously established a mechanism for Members to inform each other of the availability of translations of notified measures into one of the official languages of the WTO. These are submitted in the form of supplemental notifications. As of 31 December 2019, seven equivalence notifications (five of which in 2019) and 19 supplemental notifications had been circulated.

19.18. Out of the 164 WTO Members, 128 (78%) had submitted at least one SPS notification to the WTO. Members which had not submitted any notification so far include 12 developing countries, 15 LDCs, and one developed country. In addition, a number of EU member States have not submitted notifications; however, most SPS measures are notified by the European Union on behalf of all its member States.
As can be seen in Chart 6, the share of regular notifications (not including addenda and corrigenda) submitted by developing country Members (excluding LDCs) between January 2014 and December 2019 is 67% while the share of those submitted by developed country Members is 29%, reflecting the steady increase in notifications from developing country Members over the years. A very small share (4%) comes from LDCs.

**Chart 6 – Percentage of notifications submitted by Members, according to development status, between January 2014 and 31 December 2019**

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Under the SPS Agreement, Members are required to notify both an Enquiry Point to provide answers to all reasonable questions from interested Members and a National Notification Authority to implement the notification procedures detailed in the Agreement. As of 31 December 2019, 159 WTO Members out of 164 had designated a "Notification Authority". Those Members which had not yet done so are all LDCs. Of the 164 WTO Members, 161 had provided the WTO with the contact information of their Enquiry Point(s). Those which had not done so were all LDCs. Thirty-four Members had also identified more than one SPS Enquiry Point. The updated lists containing the contact information of National Enquiry Points and of National Notification Authorities are available from the SPS IMS.

At each meeting, Members are invited to raise any questions or concerns with regard to the implementation of the transparency provisions of the Agreement. Contributions made by Members between January 2014 and December 2019 are listed in Appendix B. Transparency regarding SPS measures and policies is also provided by Members' reporting on relevant activities and developments under the agenda item "Information Sharing", in addition to "Operation of Transparency Provisions". Members frequently use this opportunity to present information on new regulatory policies, risk assessment practices, establishment of national SPS coordinating committees, etc. The standard-setting observer organizations also provide relevant information under the agenda item on "Information Sharing", further enhancing transparency.

19.5 Proposals on transparency

In the context of the Fourth Review, the European Union, Chile, Morocco and Norway made submissions related to transparency. In particular, the joint proposal suggested that the recommended procedures be reviewed, with a view to improve such matters as: (i) the quality and completeness of the information provided in the notification; (ii) the timeliness of the publication of regular and emergency notifications; (iii) interactions with trading partners; and (iv) access to all measures adopted and proposed by a Member.

In addition, Chile, the European Union, Morocco and Norway submitted another proposal for actions related to the fulfilment of transparency obligations. They proposed that actions take two forms: (i) specific proposals for modifications in the Recommended Procedures for implementing the Transparency Obligations of the SPS Agreement (Article 7); and (ii) recommendations to the

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161 EU general communication, G/SPS/W/274, and the joint submission by Chile, the European Union, Morocco and Norway, G/SPS/W/277.

162 G/SPS/W/278.

163 G/SPS/7/Rev.3. Please note that G/SPS/7/Rev.4 was adopted in 2018, as indicated in section 19.3.
Secretariat on revising and modernizing the SPS Information Management System (SPS IMS) and Notification Submission System (SPS NSS).

19.24. A diagnosis of the needs and difficulties encountered by Members was first carried out through a questionnaire,\(^{164}\) in order to provide useful input before changing the current notification procedures. The responses to the questionnaire were analyzed,\(^{165}\) presented to the Committee and discussed in March and July 2015. The Secretariat subsequently prepared a factual compilation of existing WTO definitions of "trade facilitating",\(^{166}\) in response to requests from respondents to the questionnaire on the need to further define the term "trade facilitating". The Secretariat further highlighted that no official WTO definition of the term "trade facilitating" or "trade facilitation" had ever been adopted by WTO Members. Several Members expressed their interest in sharing their notification practices on the use of this term, rather than working on a definition.

19.25. Several other issues were highlighted from the analysis of the replies, such as: identification of the relevant international standard and whether there was conformity to such international standards; identification of HS Codes; emergency measures becoming permanent; measures notified after their adoption; and availability of translations. Members were of the view that the October 2015 Workshop on Transparency could be a good opportunity to share experiences and practices with regard to transparency, as well as to provide hands-on training on the SPS applications.

19.26. The objective of the 2015 Workshop on Transparency\(^{167}\) was to enhance the implementation and benefits of the transparency provisions, in particular by sharing national experiences, and through "hands-on" training on the testing platform for the new versions of the SPS Information Management System (SPS IMS) and the Notification Submission System (SPS NSS). The workshop also included presentations on the WTO Integrated Trade Intelligence Portal (I-TIP),\(^{168}\) the ePing notification alert system\(^{169}\) and other tools to source WTO information. In addition, the Workshop provided an occasion to discuss issues related to a joint proposal for actions related to the fulfilment of transparency obligations,\(^{170}\) submitted in the context of the Fourth Review of the Operation and Implementation of the SPS Agreement. The analysis of the replies to the transparency questionnaire, circulated to assess the needs and difficulties of Members\(^{171}\), also provided further input for the discussions. In the 2015 Workshop on Transparency, participants engaged in group discussions based on issues that had emerged from the analysis of the replies to the transparency questionnaire, and on how these could be addressed. Specifically, the following topics were discussed: (i) difficulties in filling in notifications; (ii) identifying trade facilitating measures; (iii) identifying and targeting interested stakeholders; (iv) handling comments; and (v) dealing with, and obtaining translations for, notified documents not in one of the WTO languages. Participants came up with a number of innovative suggestions on how to handle these issues.

19.27. Following up on the 2015 Workshop on Transparency, the Committee continued to discuss possible improvements in the area of transparency throughout 2016, including a joint proposal by Chile and the European Union.\(^{172}\) The proposal contains suggestions to facilitate sharing of unofficial translations of notified SPS measures, to discuss how Members decide which SPS regulations they notify as trade-facilitating measures, and to establish a central platform to share links to website where Members publish information about final SPS regulations. Some Members raised issues related to the accuracy of translations, liability, formality, restricted access and anonymity. The Committee also agreed to hold an experience-sharing session on notification of trade facilitating measures in March 2017.

19.28. The Committee continued its discussions on the joint submission by Chile and the European Union in 2017. The Secretariat provided information on the transparency requirements

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\(^{164}\) G/SPS/GEN/1382 was circulated on 2 February 2015.

\(^{165}\) G/SPS/GEN/1402.

\(^{166}\) G/SPS/GEN/1417.

\(^{167}\) The summary report of the 2015 workshop was circulated as G/SPS/R/80. The programme (G/SPS/GEN/1446) and presentations from the workshop are available via the following link: https://www.wto.org/english/tratop_e/sps_e/wkshop_oct15_e/wkshop_oct15_e.htm.

\(^{168}\) https://i-tip.wto.org.

\(^{169}\) http://www.epingalert.org/.

\(^{170}\) Joint proposal submitted by Chile, the European Union, Morocco and Norway (G/SPS/W/278), which built on two former proposals regarding transparency (G/SPS/W/274 and G/SPS/W/277).

\(^{171}\) Questionnaire circulated in document G/SPS/GEN/1382, and analysis of the replies to the questionnaire in document G/SPS/GEN/1402.

\(^{172}\) G/SPS/W/290.
under the Trade Facilitation Agreement and the mechanisms to publish notified information, which Members had requested to evaluate synergies with the proposal to create a platform to publish final regulations. In addition, the Secretariat presented the file-sharing feature of the ePing notification alert system, which could be used to share unofficial translations, and also briefly described the current mechanism for sharing unofficial translations, highlighting paragraph 28 of the Recommended Transparency Procedures (G/SPS/7/Rev.3). The Secretariat observed that this mechanism had rarely been used and further illustrated different options used to share translations through these supplements, including one option which allowed for anonymity.

19.29. Many Members recognized the usefulness of sharing translations, in particular for developing countries with limited resources, while they also expressed divergent views on some of the issues such as preserving anonymity, ensuring the accuracy of translations, and on the desirability of using existing resources versus developing a new platform. Overall, Members indicated the need for more time to assess the proposal, while reiterating their interest in continuing the discussions.

19.30. In March 2017, the Committee held its Thematic Session on Notification of Trade-Facilitating Measures, based on the joint proposal submitted by the European Union and Chile. The purpose of the session was for Members to present current practices in deciding which regulations to notify as trade facilitating measures. The Secretariat provided an overview of the notification obligations of the SPS Agreement, specifically Article 7 and Annex B. In addition, the Secretariat explained the current recommendations according to paragraph 13 of G/SPS/7/Rev.3.

19.31. The thematic session also benefitted from presentations from Chile, the European Union, and the United States, and from an intervention from Canada. In the concluding discussion, it was further noted that it would be useful to have an indication of the type of measures to be classified as trade facilitating. The suggestion was also made for Members to undertake in-depth analyses, similar to those presented. The European Union highlighted that the intention of the session was not to formulate or agree on precise proposals to be adopted, but to allow for further reflection in order to perhaps revisit some of the ideas at a later stage, such as possibly within the context of the 2017 Workshop on Transparency.

19.32. Likewise, in October 2017, the Thematic Workshop on Transparency was held, based on the same proposal by the European Union and Chile. This workshop included a highly interactive "hands-on" training on the use of the improved SPS Information Management System (SPS IMS) and the online Notification Submission System (SPS NSS), which had been launched in 2017, as well as the ePing SPS/TBT notification alert system. The workshop also provided a forum for discussion and experience-sharing on national consultation mechanisms for SPS regulations, and on other developments, challenges and practices in the area of SPS transparency. Presentations were made by the WTO Secretariat, the OECD, the World Bank, and developed and developing country Members.

19.33. In November 2018, the Committee agreed to hold a Thematic SPS Workshop on Transparency and Coordination in June 2019. The WTO funded the participation of 34 government officials from developing country Members and Observers, selected from 109 applications, with the financial assistance of the Doha Development Agenda Global Trust Fund (DDAGTF). The WTO covered the participation of four external speakers, and the United States and the African Union made it possible for eight and five participants, respectively, from Africa and Central America to attend the workshop and the meetings of the Committee. More than 150 participants attended the workshop, including Geneva- and capital-based delegates and representatives from intergovernmental organizations. The objective of this workshop was to exchange experiences with

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Please note that this corresponds to paragraph 2.23 in document G/SPS/7/Rev.4.

G/SPS/W/290.

The programme is available in document G/SPS/GEN/1544 and presentations are available at: https://www.wto.org/english/tratop_e/sps_e/wkshop22march17_e.htm.

G/SPS/7/Rev.3.


Since 2016, WTO-funded workshop participants are no longer sponsored to participate in the SPS Committee meetings, in addition to their attendance at the workshop.
transparency-related coordination, and with broader domestic coordination mechanisms. An area of focus was on the difference in scope between the SPS and TBT Agreements, and on notification of measures containing both SPS and TBT elements.

19.34. The Secretariat provided an overview of the key SPS and TBT transparency provisions and reviewed the objectives and coverage of the SPS and TBT Agreements, related discussions in the respective Committees and examples of measures notified under both Agreements. Brazil, Japan, Chinese Taipei, Canada and Uganda presented on their experience in implementing the transparency provisions with SPS/TBT notifications. The Secretariat, UNCTAD and ITC introduced several tools and sources of SPS/TBT information. Uganda, Australia, China and New Zealand shared their experience on transparency-related coordination. Representatives from the WTO Secretariat, STDF, UNCTAD and Belize took part in a round table discussion on guidance and available tools for domestic coordination. Canada, Peru, Kenya, the United States and Senegal shared domestic coordination experiences. And finally, the African Union, ECOWAS, IICA, Chile and APEC presented on regional/international initiatives to support domestic coordination.

19.35. In 2019, the United States noted that several Members had national policies to align their SPS regulations to those of the European Union, but did not regularly notify proposed changes to the SPS Committee. The United States pointed to the low notification rate of the European Free Trade Association (EFTA) and invited Members with national policies aligned with EU SPS measures to review their notification practices to ensure that other WTO Members had the opportunity to comment on changes to their SPS regulations. Colombia appreciated the inclusion of this item on the agenda, and Paraguay and Uruguay expressed their concern.

19.36. Switzerland and Norway explained their relationship with the European Union concerning SPS measures.

19.37. In 2018 and 2019, the Committee discussed the proposals submitted on notification procedures and transparency under the Fifth Review.

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181 See submission by Benin, Burkina Faso, Burundi, the Gambia, Ghana, Kenya, Madagascar, Morocco, Nigeria, the United States of America and Zambia contained in G/SPS/W/297. More information on this proposal can also be found in Part A of the Report (i.e. document G/SPS/64, see section on national SPS coordination mechanisms).

182 See submission by Brazil contained in G/SPS/W/312.

183 G/SPS/W/300 and G/SPS/W/312. See the section on notification procedures and transparency in Part A of the Report of the Fifth Review (i.e. document G/SPS/64), which provides additional details on the substance of the submitted proposals and the subsequent discussions.
Appendices A to D provide a list of documents from January 2014 to December 2019 and are accessible via the following weblink: https://www.wto.org/english/tratop_e/sps_e/tables_e/G_SPS_64_Appendix_A-D.xlsx.

Specifically, Appendix A provides a list of Secretariat background documents and other meeting documents. Appendix B provides a list of documents submitted by Members that are relevant to the various issues raised in this factual section of the Report. Appendix C similarly provides a list of documents submitted by observer organizations. Appendix D provides information about SPS-related dispute settlement activities.

The tables of contents for the appendices are as follows:

- **APPENDIX A: Secretariat background documents and other meeting documents, 2014-2019**
  - A. Transparency
  - B. Monitoring International Standards
  - C. Technical Assistance
  - D. Implementation of the Agreement – Specific Trade Concerns /Ad Hoc Consultations
  - E. Private Standards
  - F. Regionalization
  - G. Review of the SPS Agreement
  - H. Equivalence
  - I. Other

- **APPENDIX B: List of SPS Committee documents submitted by Members, 2014-2019**
  - A. Comments/Proposals regarding Transparency (Article 7 and Annex B)
  - B. Comments/Proposals regarding monitoring the use of international standards (Article 3.5 and 12.4)
    - No documents were submitted under this specific topic.
  - C.1 Information regarding Members' provision of technical assistance and training activities184 (Article 9)
  - C.2 Information regarding Members' technical assistance and training needs (Article 9)
  - D. Comments/Proposals regarding special and differential treatment (Article 10)
    - No documents were submitted under this specific topic.
  - E. Comments/Proposals regarding Risk Analysis
  - F.1 Comments/Proposals regarding Regionalization (Article 6)
  - F.2 Information regarding Members’ experience related to Regionalization (Article 6)
  - G. Comments/Proposals regarding Monitoring Implementation of the Agreement (Articles 12.1 and 12.2) – Specific trade concerns/Use of Ad Hoc Consultations
  - H. Review of the Agreement
  - I. SPS-related private standards
  - J. Equivalence
  - K. Other
  - L. Floor statements

- **APPENDIX C: List of SPS Committee documents submitted by observer organizations, 2014-2019**

- **APPENDIX D - WTO disputes invoking the SPS Agreement**

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184 This includes information on technical assistance provided by Members in GEN documents submitted up to March 2020, for technical assistance undertaken within the period of Review (i.e. 2014-2019).
SANITARY AND PHYTOSANITARY DECLARATION FOR THE TWELFTH WTO MINISTERIAL CONFERENCE: RESPONDING TO MODERN SPS CHALLENGES

MINISTERIAL DECLARATION

ADOPTED ON 17 JUNE 2022

1. We recognize that the twelfth WTO Ministerial Conference takes place following the 25th anniversary of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) — an opportune point to reflect on the successes achieved since its adoption, and to recognize the challenges ahead resulting from emerging pressures that may significantly impact international trade in food, animals and plants.

2. We wish to take this opportunity to underline that the SPS Agreement and its provisions are as relevant and applicable today as they were in 1995, and they continue to safeguard the right for Members to take measures necessary for the protection of human, animal or plant life or health.

3. In addition to this, the proper implementation of the SPS Agreement by Members supports rural livelihoods, facilitates trade, and supports sustainable agricultural growth. Of particular note to these outcomes are the contributions of the SPS Agreement’s provisions requiring Members to be transparent in taking SPS measures; and that these measures be based on scientific principles, applied only to the extent necessary to protect human, animal or plant life or health, and not be maintained without sufficient scientific evidence, including through an assessment of risk, except for provisional measures referenced in Article 5.7 of the SPS Agreement.

4. We recognize that the WTO Committee on Sanitary and Phytosanitary Measures (SPS Committee) has been instrumental in advancing the implementation of the SPS Agreement, particularly as it relates to improving the transparency of SPS measures through increased notification among Members. Looking to the future, the SPS Committee will continue to undertake valuable work, and Members remain committed to the continued enhancement of the implementation of the SPS Agreement.

5. We reaffirm the rights and obligations of Members established by the SPS Agreement and call for Members’ strengthened adherence to the SPS Agreement to support international trade while ensuring the protection of human, animal and plant life or health.

6. The Membership acknowledges that the global agricultural landscape has evolved since the adoption of the SPS Agreement in 1995. This evolution has brought about a variety of new opportunities and emerging challenges for the international trade in food, animals and plants, including but not limited to:

- expanding global populations, as well as increased movement of agricultural products to address changing population structures and distributions;
- increased pace of innovation in tools and technologies;
- climate change and increasing environmental challenges and associated stresses on food production;
- growing importance of sustainable agricultural practices and production systems, including their contribution to addressing climate change and biodiversity conservation;
- shifting pressures due to the spread of pests, diseases, disease-carrying organisms, or disease-causing organisms, increasing threat of antimicrobial resistance for human and
animal health, as well as emerging infectious diseases linked with the human-animal-environment interface, especially zoonoses; and
- continued application of SPS measures that would constitute a disguised restriction on international trade.

7. To that end, the Ministerial Conference instructs the SPS Committee to further enhance the implementation of the SPS Agreement in an effort to better manage issues related to international trade in food, animals and plants by undertaking a work programme, open to all Members and Observers, consisting of new efforts to identify: (1) challenges in the implementation of the SPS Agreement and the mechanisms available to address them; and (2) the impacts of emerging challenges on the application of the SPS Agreement.

8. Through the work programme, the Ministerial Conference envisions that the SPS Committee should explore how the implementation and application of the SPS Agreement can support the following themes, including but not limited to:

- How to facilitate global food security and more sustainable food systems, including through sustainable growth and innovation in agricultural production and international trade, and through the use of international standards, guidelines, and recommendations developed by the Codex Alimentarius Commission, the World Organisation for Animal Health and the International Plant Protection Convention as the basis of harmonized SPS measures to protect human, animal or plant life or health.

- How to support basing SPS measures on scientific evidence and principles, including where international standards, guidelines, or recommendations do not exist or are not appropriate; and how to promote the use by Members of principles employed by the international standard setting bodies for considering scientific uncertainty in risk analysis.

- How to enhance the safe international trade in food, animals and plants and products thereof through the adaptation of SPS measures to regional conditions, including pest- or disease-free areas and areas of low pest or disease prevalence which can strengthen Members’ ability to protect plant and animal life or health through efforts to limit the spread of pests such as the Mediterranean fruit fly, diseases such as African swine fever, disease-carrying organisms, or disease-causing organisms.

- How to encourage cooperation with observer organizations that support the work of the SPS Committee and the international standard setting bodies through technical exchanges and assistance in the context of this work programme.

- How to increase participation of and support for the special needs of developing and least developed country Members in the development and application of SPS measures; and in particular, to increase awareness of and sensitivity to the impacts of SPS measures on the export possibilities of such Members.

- Other topics as identified over the course of the work programme or as a result of emerging sanitary or phytosanitary challenges or risks worldwide.

9. This work programme does not launch the negotiation of new obligations, nor re-open or amend the SPS Agreement.

10. The SPS Committee will address the outcomes of this work programme and report on key findings and actions undertaken as a result of this work to the thirteenth Ministerial Conference with recommendations, as appropriate.