



8 November 2018

(18-6995)

Page: 1/3

REPORT (2018) ON THE ACTIVITIES OF THE COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

1.1. The present report is being circulated by the Chairperson of the Committee on Sanitary and Phytosanitary Measures on her own responsibility. This report provides a summary of the activities and decisions of the Committee during 2018.

1.2. The Committee on Sanitary and Phytosanitary Measures (the "SPS Committee") held regular meetings on 1-2 March, 12-13 July, and 1-2 November 2018. Mr Marcial Espíñola Ramírez (Paraguay) had been elected in 2017 as Chairperson for 2017-2018. The SPS Committee elected Ms Noncedo Vutula (South Africa) as the new Chairperson for 2018-2019 at the beginning of its July meeting.

1.3. In March 2018, the SPS Committee adopted the Catalogue of Instruments to Manage SPS Issues¹, which had initially been tabled as part of the Fourth Review of the Operation and Implementation of the SPS Agreement. Since 2014, the Committee had failed to reach consensus over the inclusion of a disclaimer in this document. The Committee finally agreed to include disclaimer language proposed by the Chairperson in July 2017, which combines 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.

1.4. The SPS Committee also launched the Fifth Review of the Operation and Implementation of the SPS Agreement in March 2018, and adopted a document laying out the process and timetable for this Review.² Recalling the challenges experienced in the adoption of the report of the Fourth Review – which had started in 2013, but was only adopted in 2017 – a couple of Members underscored the importance of having the Committee engage in discussions on the process ahead, to reach a common understanding on expectations for the Fifth Review. Members also decided to build some "breathing room" into the timetable, and the Review is scheduled to conclude in March 2020.

1.5. In July and October 2018, the SPS Committee considered 13 proposals submitted by 29 Members for work under the Fifth Review. The proposals cover recognition of equivalence of SPS measures, and in particular of systems approaches; adaptation of SPS measures to regional conditions, including pest- or disease-free areas; transparency and notifications under the SPS vs. TBT Agreement; national coordination among SPS agencies; trade issues related to pesticide MRLs; the role of Codex, IPPC and OIE in addressing specific trade concerns; third party assurance systems and the development of guidelines for implementation of Article 13; risk assessment, appropriate levels of protection, and science; and efforts to address fall armyworm infestation. In addition, Members' indicated interest in initiating work on Annex C on control, inspection and approval procedures.

1.6. As a first step, the Committee will hold several thematic sessions and/or workshops on these topics to exchange experiences and hear from experts. Following several consultations and discussions in the Committee, the Chairperson proposed a schedule of such meetings. Several Members also expressed interest in developing further Committee guidance or best practices in

¹ G/SPS/63.

² G/SPS/W/296/Rev.1.

certain areas, including equivalence and regionalization, while other Members were cautious about embarking on such work.

1.7. In the context of the Fifth Review, the SPS Committee held the first part of a thematic session on equivalence in October 2018 following a proposal submitted by Canada. Other Members also submitted proposals recommending that the Committee further discuss the concept of equivalence, including examining the existing guidance on the recognition of equivalence (G/SPS/19/Rev.2).

1.8. This thematic session provided an opportunity to introduce the concept of equivalence, and for WTO Members to increase their awareness of the relevant provisions of the SPS Agreement, the guidance from the Committee (G/SPS/19/Rev.2), and related jurisprudence. Based on the comments received from one Member, the thematic session also included a presentation from the Secretariat on equivalence from a TBT perspective. In addition, representatives of Codex, IPPC and OIE explained how the concept of equivalence is applied in their areas, as well as the relevant international standards. The second part of this thematic session will be held in March 2019, and will focus on Members' experiences with the implementation of equivalence.

1.9. The SPS Committee held a Workshop on Control, Inspection and Approval Procedures (Annex C of the SPS Agreement) in July 2018, organized by the Secretariat.³ This workshop explored ways to expedite and simplify border procedures while ensuring that traded products do not present food safety, animal or plant health risks. It covered relevant rules in the SPS and Trade Facilitation Agreements, jurisprudence, international SPS standards, and allowed for an exchange of experiences among Members. Speakers from the World Bank, STDF, COMESA and certain Members gave estimates of transaction costs related to SPS controls and identified opportunities to facilitate safe trade, including through inter-agency collaboration, risk-based inspections and increased transparency. One session focused on e-certification, and a final roundtable on capacity-building programmes highlighted various opportunities for leveraging resources to strengthen SPS-related border procedures. Members indicated interest in continuing to discuss the topic, possibly as part of the Fifth Review. The SPS Committee requested the Secretariat to update a 2014 room document on the relationship between the SPS Agreement and the Trade Facilitation Agreement (TFA).⁴ This document was subsequently discussed in the October 2018 SPS Committee meeting.

1.10. Following a proposal from the United States, the Committee held a thematic session on pest-free areas in February 2018. The session focused on relevant SPS Agreement provisions, Committee guidelines, jurisprudence from recent disputes, and information on the IPPC standards on pest-free areas. In addition, the Southern Cone Plant Health Committee (COSAVE) and the International Atomic Energy Agency (IAEA) provided regional and international perspectives. Members also had the opportunity to share 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.

1.11. The SPS Committee considered the Annual Overview of the implementation of the transparency provisions of the SPS Agreement.⁵ Considering all types of notifications, a total of 23,525 notifications were submitted from 1 January 1995 to 15 September 2018. Between 1 January and 15 September 2018, 888 regular notifications and 83 emergency notifications were circulated. The share of notifications from developing countries continues to be high, at about 73% in 2018. As of 15 September, 127 Members had submitted SPS notifications, and of these, 42 Members had submitted SPS notifications online via the SPS NSS. In addition, Liberia and Montenegro submitted SPS notifications for the first time in 2018.

1.12. The Committee also considered the Annual Report on the Procedure to Monitor the Process of International Harmonization.⁶ Three new issues were raised in March and July 2018, on: unnecessary delays in the adoption of Codex Food Additive Standards; risk management related to the global movement in plant seeds; and ASF restrictions not consistent with the OIE international standard. At the October meeting, the Committee considered another two issues, relating to: non-science factors in Codex standards; and use of the Codex definitions for milk and milk products.

³ The programme of the workshop is contained in G/SPS/GEN/1613/Rev.2.

⁴ RD/SPS/3/Rev.2 (and Corr.1).

⁵ G/SPS/GEN/804/Rev.11 (and Corr.1).

⁶ G/SPS/GEN/1617.

1.13. Many Members provided the SPS Committee with information regarding their status with respect to specific plant pests and animal diseases. This information is compiled in the Annual Report on the Implementation of Article 6.⁷ The Committee also considered the Annual Report on the Use of the Procedure to Encourage and Facilitate the Resolution of Specific SPS Issues, which had never been used.⁸ At each meeting, Members also provided information regarding changes in their SPS policies and situations.

1.14. The SPS Committee considered a wide range of specific trade concerns. Members raised 13 new specific trade concerns during March and July 2018. New trade concerns included, *inter alia*: Viet Nam's draft amendment to Circular 24 on MRLs for veterinary drugs; Mexico's market access requirement for casein products; Saudi Arabia's temporary ban on the importation of fish, crustaceans and other aquatic animal products; Viet Nam's market access requirements for "white" offals; US import restrictions on apples and pears; New Zealand's draft import health standard for vehicles, machinery and equipment; lack of transparency and undue delays in Indonesia's approval procedures for animal products; EU Commission Decision 2002/994/EC on animal products; EU restrictions on poultry meat and poultry meat preparations (Regulation (EU) No. 2018/700); Panama's restrictions on beef and poultry meat; the Russian Federation's restrictions on beef and swine meat (G/SPS/N/RUS/145); EU review of legislation on veterinary medicinal products; and new EU definition of the fungicide folpet. In addition, the following five new specific trade concerns were raised at the October meeting: EU MRLs for certain pesticides; the Russian Federation's bluetongue-related import restriction on ruminants; Viet Nam's import restrictions in the draft law of animal production; Thailand's import fees related to approval procedures for live animals and animal products; and the European Court of Justice Opinion 528/16 on organisms obtained by mutagenesis.

1.15. Many previously raised concerns continued to be discussed during 2018. Several Members intervened on issues such as the EU proposal for categorization on compounds as endocrine disruptors, EU maximum level of cadmium in foodstuffs and China's certification requirements for food imports. Three Members provided information on trade concerns that had been fully or partially resolved, allowing the Secretariat to update the SPS Information Management System. Information on specific trade concerns is compiled on an annual basis in a report discussed at the March meeting.⁹

1.16. Members, Observer Organizations and the Secretariat provided information on SPS-related technical assistance activities at each of the Committee's meetings. The STDF Secretariat also kept the Committee informed of the work of the Standards and Trade Development Facility.¹⁰

1.17. The SPS Committee maintained its close working relationship with the Codex, IPPC, and the OIE (often referred to as the "Three Sister" organizations) and received regular updates on their activities. Other observer organizations also provided information on their activities.

1.18. The SPS Committee has tentatively agreed to hold regular meetings on 20-21 March, 10-11 July, and 6-7 November 2019.

⁷ G/SPS/GEN/1618.

⁸ G/SPS/GEN/1642.

⁹ G/SPS/GEN/204/Rev.18.

¹⁰ G/SPS/GEN/1607, G/SPS/GEN/1627 and G/SPS/GEN/1653.