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## REPORT (2017) 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 his own responsibility. This report provides a summary of the activities and decisions of the Committee during 2017.

1.2. The Committee on Sanitary and Phytosanitary Measures (the "SPS Committee") held regular meetings on 22-23 March, 13-14 July, and 2-3 November 2017. The March 2017 SPS Committee was chaired by interim Chairperson Mr Felipe Hees (Brazil). Subsequently, the SPS Committee elected Mr Marcial Espínola Ramírez (Paraguay) as the new Chairperson for 2017-2018.

1.3. The SPS Committee adopted the Report of the Fourth Review of the Operation and Implementation of the SPS Agreement<sup>1</sup> at the July 2017 Committee meeting. The adoption of this Report had been pending since October 2014, as the Committee had not reached consensus on the inclusion of a recommendation for future work on SPS-related private standards. Following a proposal from the United States and subsequent discussions among Members, the specific recommendation was replaced by descriptive text explaining the nature of the disagreement. The Committee requested that the Secretariat prepare a proposed timeline and procedure for the Fifth Review for consideration at its meeting in March 2018, with a view to starting this Review in 2018.

1.4. The SPS Committee is considering a proposal submitted by Kenya, Uganda and the United States on follow-up recommendations to the October 2016 Workshop on Pesticide Maximum Residue Levels (MRLs).<sup>2</sup> This proposal suggests strengthening the Codex system of setting MRLs; enhancing transparency of MRL; inviting regular reports to the SPS Committee about relevant international and regional activities; collaborating on solutions for minor use and specialty crops; and discussing the role of the Committee in coordination and harmonization. It also includes a proposed Ministerial Decision on the Committee's work on pesticide MRLs. While there was broad support for the proposal and for the inclusive, bottom-up procedure through which it was developed, there was no consensus on the endorsement of the Ministerial Decision for transmission to the Ministerial Conference to be held in Buenos Aires in December 2017.<sup>3</sup> Most Members supported including the proposal's recommendations in the Report of the Fifth Review.

1.5. The Committee continued its consideration of the Catalogue of Instruments Available to WTO Members to Manage SPS Issues<sup>4</sup>, tabled by Canada and Kenya as part of the Fourth Review. Although the Committee agrees on the value of the document, there is still no agreement on the inclusion of a disclaimer to clarify its legal status. With a view to resolving these differences, the Chairman proposed a new approach of combining an introductory paragraph describing the intended uses of the Catalogue with a soft disclaimer<sup>5</sup>, but one Member could not accept it due to systemic concerns about the inclusion of disclaimers in Committee documents. The Committee requested a briefing on the use of Committee decisions and disclaimers in dispute settlement for early 2018.

1.6. Following up on discussions in 2016, the Committee continued to discuss a joint transparency proposal<sup>6</sup> by Chile and the European Union, which contains suggestions on the notification of

<sup>1</sup> G/SPS/62.

<sup>2</sup> G/SPS/W/292/Rev.2.

<sup>3</sup> The proposed Decision is contained in an Annex to G/SPS/W/292/Rev.2.

<sup>4</sup> G/SPS/W/279/Rev.2.

<sup>5</sup> RD/SPS/16.

<sup>6</sup> G/SPS/W/290.

trade-facilitating SPS measures, sharing of unofficial translations of notified SPS measures, and creating a central platform to provide online access to Members' final SPS regulations. As agreed in October 2016, the Committee held a thematic session in March 2017 for Members to present current practices in deciding which regulations to notify as trade facilitating measures. The Secretariat provided information on the transparency requirements 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. The Secretariat also presented the file-sharing feature of the ePing notification alert system, which could be used to share unofficial translations.<sup>7</sup> Members continued to discuss these suggestions.

1.7. The SPS Committee held a Workshop on Transparency, organized by the Secretariat.<sup>8</sup> This workshop included training on the use of the improved SPS Information Management System (SPS IMS) and the online Notification Submission System (SPS NSS)<sup>9</sup>, 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.

1.8. Following a proposal from the European Union, the Committee held a thematic session on regionalization in the animal health area in July 2017. This session provided an opportunity for Members to increase their awareness of regionalization principles, and to share experiences about the challenges and benefits of implementing regionalization in practice. The Secretariat presented relevant provisions of the SPS Agreement, Committee guidelines, and jurisprudence from recent disputes. The Deputy Director General of the World Organisation for Animal Health (OIE) provided information on the OIE standards on regionalization. Several Members shared their experiences in the implementation of regionalization, both from an importing and an exporting country perspective. The Committee found the thematic session useful and decided to hold another thematic session, this time on pest-free areas for plants, in early 2018.

1.9. The SPS Committee considered the Annual Overview of the implementation of the transparency provisions of the SPS Agreement.<sup>10</sup> Considering all types of notifications, a total of 21,888 notifications were submitted from 1 January 1995 to 15 September 2017. Between 1 January and 15 September 2017, 625 regular notifications and 144 emergency notifications were circulated. The share of notifications from developing countries continues to be high, at about 67% in 2017. As of 15 September, 125 Members had submitted SPS notifications, and of these, 42 Members had submitted SPS notifications online via the SPS NSS. In addition, Côte d'Ivoire has submitted SPS notifications for the first time in October 2017.

1.10. The Committee also considered the Annual Report on the Procedure to Monitor the Process of International Harmonization.<sup>11</sup> In addition, three new issues were raised in 2017. These related to Codex guidelines and principles for official certification requirements; to the relation of WHO and FAO to Codex Alimentarius; and to the OIE's new chapter on porcine reproductive and respiratory syndrome, all raised by the United States.

1.11. 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.<sup>12</sup> 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.<sup>13</sup> At each meeting, Members also provided information regarding changes in their SPS policies and situations.

1.12. The SPS Committee considered a wide range of specific trade concerns. Members raised 17 new specific trade concerns during 2017. New trade concerns included, *inter alia*, Ecuador's concerns over Brazil's measures on bananas, and Saudi Arabia's measures on shrimp; United States' concerns regarding the Gulf Cooperation Council (GCC) guide for control of imported

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<sup>7</sup> <http://www.epingalert.org>.

<sup>8</sup> The programme of the workshop is contained in G/SPS/GEN/1568/Rev.2.

<sup>9</sup> <http://spsimswto.org>; <https://nss.wto.org/>.

<sup>10</sup> G/SPS/GEN/804/Rev.10.

<sup>11</sup> G/SPS/GEN/1550.

<sup>12</sup> G/SPS/GEN/1552.

<sup>13</sup> G/SPS/GEN/1573.

foods; Montenegro's concerns regarding the Russian Federation's import restrictions on wine; several Members' concerns over India's fumigation requirements for different products; Viet Nam's suspension of groundnut seed imports; several Members' concerns regarding specific pesticide MRLs adopted by trading partners and about measures on avian influenza.

1.13. Many previously raised concerns continued to be discussed during March and July 2017. Several Members intervened on issues such as the EU proposal for categorization on compounds as endocrine disruptors, and China's certification requirements for food imports. Members informed the Committee about the full or partial resolution of 29 specific trade concerns, allowing the Secretariat to update the SPS IMS. Information on specific trade concerns is compiled on an annual basis in a report discussed at the March meeting.<sup>14</sup>

1.14. 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.<sup>15</sup>

1.15. 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.

1.16. The SPS Committee has tentatively agreed to hold regular meetings on 1-2 March, 11-12 July, and 31 October - 1 November 2018.

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<sup>14</sup> G/SPS/GEN/204/Rev.17.

<sup>15</sup> G/SPS/GEN/1538, G/SPS/GEN/1558 and G/SPS/GEN/1581.