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**Committee on Sanitary and Phytosanitary Measures**

**SUMMARY OF THE MEETING OF 24-25 JUNE 2008**

Note by the Secretariat<sup>1</sup>

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

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## **I. ADOPTION OF THE AGENDA**

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its forty-second regular meeting on 24-25 June 2008. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3208).

## **II. ACTIVITIES OF MEMBERS**

### *United States – Food Protection Plan*

2. The representative of the United States reported that the Food and Drug Administration (FDA) has established a public docket to receive information and comments related to the Food Protection Plan (FPP), a strategy to protect the nation's food supply. The FPP is based on three core elements: prevention, intervention, and response. Comments will be accepted until 31 July 2008, and can be submitted to the FDA through the website <http://www.regulations.gov>, docket number 2008-N-0188.

### *Canada – Update on Outbreak of Highly Pathogenic Avian Influenza in Saskatchewan*

3. The representative of Canada provided an update on the outbreak of highly pathogenic avian influenza (H7n3) in the province of Saskatchewan, first reported to the Committee in October 2007. In response to the outbreak, the Canadian Food Inspection Agency had implemented movement controls, the humane depopulation of birds on infected farms, and cleaning and disinfection of premises. In addition, a surveillance programme had been implemented. These actions were consistent with OIE's recommendations and guidelines. In April 2008, Canada notified to the OIE that no further cases of avian influenza had been detected after more than ninety days. Canada's final report on the outbreak is available at the OIE's web site. Furthermore, Canada announced the recently-established Canadian Notifiable Avian Influenza Surveillance System (CanNAISS), which provides information about notifiable avian influenza viruses in Canada's domestic poultry flocks. This surveillance system is compulsory for Canadian poultry farmers and processors wanting to participate in international trade. Complete information about Canada's Avian Influenza Surveillance System is available at the web site <http://www.inspection.gc.ca>. Canada requested Members to review and remove any trade restrictions on Canadian products which are currently in place due to avian influenza concerns.

### *Switzerland – Update on the BSE Situation*

4. The representative of Switzerland reported that no new cases of Bovine Spongiform Encephalopathy (BSE) had been detected in the country during 2007 or in the first six months of 2008. This was a result of Switzerland's implementation of strict measures on mitigation, surveillance and eradication of BSE risks. In May 2006, the OIE officially classified the country as a controlled BSE risk. Based on OIE's classification, and in accordance with Chapter 2.3.13 of the Terrestrial Animal Health Code, Switzerland requested all trading partners to remove any remaining restrictions on the importation of Swiss cattle genetics, meats, and meat products. (See document G/SPS/GEN/844).

### *Paraguay – Updates on BSE and FMD Status*

5. The representative of Paraguay provided information on the BSE and Foot and Mouth Disease (FMD) status of his country. In 1996, the National Animal Health Service established an epidemic surveillance system, in conformance with OIE's recommendations and guidelines. In addition, Paraguay built and equipped laboratories, trained officials, and undertook actions which enabled the country to reach a Risk One level, according to the European system. Paraguay was

recognized during the 76th OIE meeting in May 2008 as having a "negligible" BSE risk status. With respect to FMD, the OIE had classified Paraguay as a disease-free area with vaccination. Paraguay has undertaken several measures to maintain its status, including the establishment of buffer zones with bordering countries.

*Brazil – Update on FMD Status*

6. The representative of Brazil reported that the OIE had recognized two Brazilian zones as free of FMD with vaccination. These two zones comprised the Federal District and ten Brazilian Federal States: Paraná, São Paulo, Goiás, Mato Grosso, Tocantins, Minas Gerais, Rio de Janeiro, Espírito Santo, Bahia, Sergipe. The recognized FMD-free zones, with vaccination, cover 55 per cent of the Brazilian territory, where 79 per cent of the cattle population and 83 per cent of the swine population are located. Brazil urged WTO Members to recognize its FMD-free zones based on OIE's Resolution XVII.

*Bolivarian Republic of Venezuela – Comprehensive Agricultural Health System*

7. The representative of the Bolivarian Republic of Venezuela reported that, with a view to establishing a new conceptual theoretical-philosophical framework based on the quality of the soil, water, air and people's health, certain institutional and State projects were relevant. These included: (a) implementation of a new comprehensive agricultural health system, which favoured involvement of animal and plant producers through communal councils, farmers' councils, and comprehensive animal and plant health councils, in campaigns on prevention, control and eradication of the main diseases and pests (FMD, brucellosis and avian influenza); (b) development of a sovereignty and defence system; (c) creation and development of a national network of diagnostics and phytosanitary and zoosanitary biological resource production laboratories; and (d) introduction of a national technical geo-referencing platform to keep official information up-to-date. More information on Venezuela's Comprehensive Agricultural Health System was provided in document G/SPS/GEN/854.

*Belize – Classical Swine Fever Free Status*

8. The representative of Belize reported its self-declaration of freedom from classical swine fever (CSF). The last occurrence of the disease in the country dated back to 1988. Since then, Belize had adopted appropriate measures to prevent the reintroduction of the disease and to enable its early detection. A CSF eradication programme was initiated in 1998 with funds provided by the OIRSA PREFIP I and II projects and the EU-CARICOMFORUM CSF project. Epidemiological surveillance systems in Belize followed international guidelines, and the country had developed an Emergency Preparedness and Response Plan in 2000, which was updated in 2004. Surveys undertaken in 2000 and 2004 through the collection of 3,390 and 2,523 samples, respectively, indicated negative results to CSF. Based on a series of achievements, Belize had scientific documentation for its declaration of CSF-freedom.

*Belize – FMD Free Status*

9. The representative of Belize reported that the OIE, at its 76<sup>th</sup> General Session in May 2008, had recognized the country as free from FMD without vaccination. In this regard, Belize encouraged Members to comply with the provisions of the SPS Agreement and to recognize Belize's FMD-free status.

*Mexico –BSE Status*

10. The representative of Mexico provided information on its BSE status (G/SPS/GEN/858). In May 2008, the OIE recognized Mexico as a "controlled" BSE risk, in accordance with Chapter

2.3.13.4 of the OIE Terrestrial Animal Health Code. Mexico believed that its new status would provide the opportunity to export bovine genetic components, as well as meat and meat products, to new markets. Mexico requested Members to remove any import restrictions applied to Mexican bovine products.

#### *Haiti – Sanitary Information*

11. The representative of Haiti reported that at the end of May 2008, a number of suspected cases of avian influenza were identified, involving chickens and a turkey infected with the H5N2 low pathogenic virus. The outbreaks were confirmed on 5 June 2008 by a laboratory in Iowa, United States. The eleven cases were spread throughout the following towns and areas: Tilory (Centre), Baskin (Sud), Vertières, Saint Michel and Tozen (Nord). Measures had been undertaken in order to contain the outbreaks within the country.

12. The representative of Haiti noted that his country had implemented a control program for the fruit fly (*Anastrepha obliqua* species) which continued to be highly effective. Francisque mangoes were once again being exported to several markets, including Canada, France and Spain. He noted that in July 2007, some larvae of fruit fly were found in mango exports to the United States. After receiving technical assistance and implementing the necessary actions, this risk had been eliminated. More information regarding Haiti's control programmes, including field work and analysis in laboratories, could be obtained from experts in the capital.

#### *Malawi – Enquiry Point and International Standards Situation*

13. The representative of Malawi reported that his country had successfully established an SPS Enquiry Point. This had been achieved by strengthening communication with the private sector and creating a national committee on non-tariff barriers (NTBs). This national committee would discuss *inter alia* SPS matters. With respect to compliance with international standards, Malawi had improved its capacity to control the aflatoxin levels in its products, specially in nuts. A workshop sponsored by the Commonwealth Secretariat had been conducted in the country on the application of the IPPC evaluation tool, and on Good Agricultural Practices (GAP). The representative of Malawi thanked SACAU for sponsoring his participation in the SPS Committee meeting.

#### *Chile – Information about Implementation of the WTO SPS Agreement vis-à-vis Bilateral Agreements*

14. The representative of Chile reported that the bilateral agreements with SPS provisions which Chile had entered into had a complementary role in the implementation of the WTO SPS Agreement. These agreements had simple provisions based on the WTO SPS Agreement principles. Their scope also included administrative matters, and in some cases, dispute settlement and technical cooperation. For most of the agreements, a committee had been established for better administration of the parties' commitments. Chile had negotiated Free Trade Agreements with Canada, Central America, China, Japan, Korea, Mexico, Panama, United States and EFTA. Association Agreements had been negotiated with the European Union, New Zealand, Singapore, and Brunei Darussalam. Complementary Agreements had been negotiated with Argentina, Bolivia, MERCOSUR, Peru, and Venezuela. An agreement with India was partially achieved. There were agreements still under negotiation or awaiting domestic adoption with: Australia, Colombia, Ecuador, Malaysia, and Turkey. More information on the texts of the referred agreements was available from the web site of the Ministry of Foreign Affairs, <http://www.direcon.cl>. Agreements had been reached on an institutional level with Algeria, Australia, Brazil, Cuba, Dominican Republic, Israel, Morocco, Nicaragua, Paraguay, Sri Lanka, and Uruguay. More information was available from the Agriculture and Livestock Service (SAG) web site at <http://www.sag.gob.cl>.

### III. SPECIFIC TRADE CONCERNS

(a) New issues

*Japan's Pesticide Maximum Residue Level (MRL) Enforcement System – Concerns of the United States*

15. The representative of the United States noted that in May 2006, Japan's Ministry of Health, Labour and Welfare (MHLW) imposed a testing and sanctions policy that involved increased testing (30 per cent country-wide) after the occurrence of one MRL violation. If a second violation involving the same pesticide and commodity occurred within one year of the first, a 100 per cent test-and-hold policy was enforced on all exports of that commodity from that country. The United States believed that the sanctions under inspection and control programmes should be limited to the violating supplier as long as there was no indication that a country-wide problem existed. The United States considered that this would be the least trade restrictive measure and the most appropriate policy. This was also the policy applied by the United States itself.

16. The representative of China supported the concerns raised by the United States and invited Japan to provide scientific justification for its measure, in order to comply with the SPS Agreement.

17. The representative of Japan stated that the MRLs for agricultural chemicals in food were developed based on scientific assessments, and took into account the MRLs established by the Codex and by other countries. Before adopting a new MRL, Japan notified its proposal to the WTO and considered any comments from Members, as appropriate. The MRLs applied equally to domestic and imported products. Whenever non-compliance with an MRLs was found in imported products, Japan strengthened inspections of agricultural chemical residues. The degree, frequency, or extent of enhanced inspection was determined by the circumstances. Each violation was handled on a case-by-case basis, but always conducted in a rational and reasonable manner, for instance, by limiting the enhanced inspections to the violating exporter only.

*US Import Restrictions on EC Dairy Products – Concerns of the European Communities*

18. The representative of the European Communities reported that for several years it had undertaken efforts to improve the market access for its dairy products into the United States. These had included requests for recognition of equivalence of its SPS measures and systems. The US regulatory regime governing the trade of dairy products dated from the 1920's and involved different governmental levels, such as federal and state levels, as well as individual representatives. The European Communities had pursued several options, but with no success. The representative of the European Communities underlined the importance of the United States considering the multiple requests for recognition of equivalence.

19. The representative of New Zealand noted that, as a major producer and exporter of dairy products, including fresh milk ingredients and its products, it would like to be kept informed about the developments on this issue.

20. The representative of the United States noted that any EC member State, as well as any other Member, were free to, and did, export many dairy products to the US market. Countries could ship "Non-Grade A" manufactured products categorized such as cheeses, butter, ice cream, and other frozen desserts. It was the responsibility of the supplier of food products for importation into the United States to ensure that the food complied with the applicable US laws and FDA regulations. In the United States, a segment of pasteurized milk products, which were generally referred to as "Grade A" products, were subject to a specific set of hygiene and safety standards, described in the Pasteurized Milk Ordinance. Products designated as "Grade A" could only be produced by "Grade A"

facilities. These products included fluid milk, cultured and acidified milk, cream, sour cream, half-and-half, cottage cheese, yogurt and those dried dairy products that were used as ingredients in these products. The US Food and Drug Administration (FDA) would revisit the EC concerns and work with the EC Health and Consumer Protection Directorate-General on this matter.

#### *US Restrictions on Apples – Concerns of China*

21. The representative of China noted that it had submitted an application to export apples to the United States, accompanied by the necessary technical materials. Additional materials had been provided in accordance with the US requirements on pest risk analysis. However, the US pest risk analysis had been unduly delayed. China was free of fruit flies in apple planting areas, and it used fruit-bagging techniques to prevent pests and disease infections as the bagged fruits were totally isolated from the environment. China was also free of fire blight and there were no quarantine risks for Chinese apples. Furthermore, China had provided all the technical materials requested by the United States, and had held bilateral technical consultations with the competent authorities. However, the US pest risk analysis on Chinese apples had still not been completed after ten years. China urged the United States to complete the relevant procedures as soon as possible.

22. The representative of the United States noted that given the significant number of pests of quarantine significance that needed to be addressed in China's request, the pest risk assessment had proven to be challenging. The United States had been seeking to finalize the list of apple pests in China since 2004. Dozens of pests of potential quarantine significance had been identified. A final list of pests needed to be developed in order to evaluate the risks associated with Chinese apples and to identify the appropriate mitigations treatments. The United States would continue to work on this issue to address the scientific matters associated with the risk assessment.

#### *Mexico's Import Restrictions on Rice – Concerns of Pakistan*

23. The representative of Pakistan noted that since 2005, Mexico banned the importation of Pakistani rice. Both countries had engaged in bilateral consultations since 2006, but with marginal progress to date. Pakistan was willing to apply mitigation treatments on its rice, if necessary, but no further information had been provided by Mexican authorities. Pakistan considered that Mexico was failing to respect its obligations under Articles 4 and 5 of the SPS Agreement. Pakistan urged Mexico to eliminate the import restrictions imposed on Pakistani rice, and stressed that Pakistan was ready to respond to any request from Mexico.

24. The representative of Mexico observed that it did not agree with the concerns raised by Pakistan related to Article 4 (equivalence) and Article 5 (risk assessment and determination of appropriate level of protection). Mexico was currently conducting a pest risk analysis in accordance with IPPC's standards, before allowing the importation of rice from Pakistan. In this pest risk analysis, Mexico was assessing all the potential pests, and not only the gorgojo khapra (*Trogoderma granarium*). In addition, in every meeting of the Mexico-Pakistan Commission, Mexico had informed Pakistan about the latest developments of the risk analysis. A memorandum of understanding between both countries acknowledged the need to complete a risk assessment before allowing imports of rice from Pakistan. The results of the pest risk analysis would be conveyed to Pakistan as soon as it was concluded. Mexico reiterated its willingness to bilaterally work with Pakistan on this matter.

#### *Mexican Restrictions on Imports of Swine Meat – Concerns of Brazil*

25. The representative of Brazil raised concerns about Mexico's delay in recognizing Brazil's FMD-free areas, and failure to allow importation of Brazilian pig meat. The recognition process had been delayed by unjustifiable requests for additional information, resulting in a lengthy and costly process. Since June 2007, Brazil had requested Mexico to recognize the State of Santa Catarina as an

FMD-free area without vaccination, based on OIE's decision at its 75<sup>th</sup> General Session. However, no response had been given, even though these concerns were raised by Brazil in bilateral consultations. Taking into account the recent decision by the Committee on regionalization, Brazil requested that a working plan containing time-lines and a date for finalizing the recognition process be established.

26. The representative of Mexico confirmed that Brazil had presented information to the competent authorities at the Mexico National Service for Agro-food Health, Safety and Quality (SENASICA-SAGARPA). Those authorities were presently conducting technical analyses and Mexico hoped to provide a positive response to Brazil in the near future.

(b) Issues previously raised

*EC Restrictions on US Poultry Exports (STC 242) – Concerns of the United States*

27. The representative of the United States recalled that its poultry exports faced restricted access to the EC market since 1997, based on a ban on the use of Pathogen Reduction Treatments (PRTs). Over the past 11 years, the European Food Safety Authority (EFSA) and other scientific bodies had concluded that the consumption of poultry washed with certain PRTs did not pose any risk to public health. Although the European Commission had proposed legislation permitting the use of PRTs in January 2006, the ban on imported poultry had not been removed.

28. The representative of the European Communities observed that the EC market was open to trade and they imported large volumes of poultry and poultry products from a number of countries, including Brazil and Thailand. The European Communities banned the use of antimicrobial treatments (AMT) in poultry because these could be abused in order to compensate for poor hygienic conditions throughout the production chain. Given the high hygienic standards in the United States, if the use of AMTs were eliminated in US poultry production, the European Communities could most likely resume imports of US poultry products.

*US Import Restrictions on Cooked Poultry Products (STC 257) – Concerns of China*

29. The representative of China reported that its concerns on the US ban on imported Chinese cooked poultry dated back to 2004. China had been informed that all technical issues, including recognition of the equivalence of its sanitary system, had been resolved during bilateral consultations. However, the US Agriculture Appropriations Bill for Fiscal Year 2008, Section 7333, stipulated that the funds made available by that bill could not be used to establish or implement a rule allowing Chinese poultry products to be imported into the United States. This legislation disregarded the fact that the USDA had undertaken a risk assessment which concluded that Chinese cooked poultry did not pose risks to health. China considered the law to be discriminatory, and not based on science. China requested an update of the situation, and an indication of when Chinese cooked poultry products would be allowed into the US market.

30. The representative of the United States indicated that her country placed great importance on the fact that its SPS measures were based on science. China's concerns would continue to be raised with the appropriate authorities within the United States with the hope that this situation could be resolved as soon as possible.

*India's Restrictions due to Avian Influenza (STC 185) – Concerns of the European Communities*

31. The representative of the European Communities reported that India continued to apply a ban on the imports of poultry, swine, and their products, from areas that had reported outbreaks of either low - or high-pathogenic avian influenza in wild bird populations only. In addition, India restricted the importation of products also from areas where low pathogenic avian influenza had been found,



disregarding the OIE standards which assured the complete elimination of risks and allowed products to be safely traded. The ban on imports of pigs and pigmeat was not justified according to the OIE, nor had India provided scientific justification for the ban. India's restrictions were disproportionate and the European Communities requested India to review its measures without delay.

32. The representative of Canada supported the EC arguments, noting that according to the OIE, pigs did not represent a threat for transmitting avian influenza. Furthermore, India should recognize the principle of regionalization when applying a ban based on avian influenza. Canada requested that India follow the OIE's standards and remove the import restrictions currently in place.

33. The representative of the United States supported the concerns raised, observing that India's measure had been introduced and maintained without scientific evidence or risk assessment. India's argument that low pathogenic avian influenza had the potential to mutate into the highly pathogenic form, and that virus re-assortment could occur in swine, had been addressed by the OIE. The United States had requested a copy of India's risk assessment that supported its ban, but this had not been provided.

34. The representative of China supported the concerns raised and requested India to revisit its measure in order to comply with OIE recommendations.

35. The representative of India clarified that India did not allow the importation of poultry and pork products, including processed meats, from areas where outbreaks of avian influenza had been reported. India was equally concerned about low and highly pathogenic avian influenza, as well as with avian influenza found in wild birds only. A number of scientific studies had shown the possibility of low pathogenic forms of avian influenza mutating into highly pathogenic strains. A report from FAO had also shown that mutation was feasible. An official US web site asserted that low pathogenic forms of avian influenza had the potential to mutate into highly pathogenic avian influenza. At the OIE General Session in May 2007, India had voted against the resolution that stated that low pathogenic avian influenza did not pose a risk to international trade. India remained concerned that the low pathogenic viruses also posed risks to human health. Regarding pigs, scientific evidence showed that pigs could host the virus and were known to be a mixing vessel for some diseases, hence they could infect humans with avian influenza. As new scientific evidence evolved, India had lifted its bans on some products, such as eggs and pet food. Further reviews would be done in the future. India took note of Members' requests for copies of the risk assessment and for the recognition of regionalization, and those concerns would be conveyed to experts in the capital.

#### *Mexican Restrictions on Imports of Cooked and Frozen Meat (STC 263) – Concerns of Brazil*

36. The representative of Brazil reiterated concerns about Mexico's requirements on the importation of Brazilian cooked and frozen meat. As recognized in Article 3.6.2.1. of the OIE Terrestrial Code, cooking of meat completely inactivated the FMD virus. In addition, Mexico's ban on Brazilian cooked meat was contrary to the decisions of its NAFTA partners which imported cooked and frozen meat from Brazil. Mexico had sent a communication indicating the need to approve meat processing facilities in order to allow exports. Brazil had therefore requested further details about the criteria for these evaluations. The approval procedure should be done on a sample basis. Furthermore, there had been continuous delays by the Mexican authorities in sending an inspection group to conduct on-site visits. Brazil urged Mexico to apply the SPS Agreement provisions and OIE recommendations, and to eliminate its import restrictions, as cooked and frozen meat did not pose risks of transmitting the FMD virus.

37. The representative of Mexico stressed the positive developments in the consultations held with Brazil since the issue was first raised. The Mexican National Service for Agro-food Health, Safety and Quality (SENASICA-SAGARPA) had requested more information about the companies

that produced food and canned meat foods, including their official recognition, information about the national programme on toxic residues, and information about compliance with specific official requirements in force in Mexico. Imports could be permitted only after the fulfillment of those requirements. Mexico further raised concerns about Brazil's refusal to import pathogen-free eggs from Mexico. This restriction started in 2005, after the outbreak of low pathogenic avian influenza in the country. Mexico had provided information and requested an on-site evaluation, but no response had been provided by the Brazilian authorities.

38. The representative of Brazil contested the linkages between the restrictions on importation of Mexican eggs and the recognition of FMD-free zones in Brazil. Regarding Mexico's complaint on the restriction on eggs, bilateral technical consultations had been held, and Brazil was waiting to receive the complementary information that it had requested of Mexico.

39. The representative of Mexico reported that it was carrying out the necessary analysis on recognition of FMD-free areas in Brazil, but the existent Mexican official requirements needed to be complied with. With respect to exports of eggs, the information requested by Brazil would be provided as soon as possible.

(c) Consideration of Specific Notifications Received

40. No Member provided any information under this agenda item.

(d) Information on Resolution of Issues in G/SPS/GEN/204/Rev.8

41. No Member provided any information under this agenda item.

#### **IV. OPERATION OF TRANSPARENCY PROVISIONS (G/SPS/7/REV.3)**

42. The Secretariat reported that the web site of the SPS Information Management System (SPS-IMS) was constantly updated with the latest contact details on Members' Enquiry Points and National Notification Authorities. Therefore, the documents that used to be circulated to the Committee with this information would no longer be prepared on a regular basis. The Secretariat also indicated that those interested could now subscribe to one of two separate electronic mailing lists for unrestricted documents. One list included all unrestricted documents, including notifications, while the new list would not include notifications.

43. The Secretariat also drew the Committee's attention to the fact that four Members had notified more than one National Notification Authority, contrary to the provisions of the SPS Agreement. Those Members had been contacted and requested to indicate which was the single National Notification Authority, otherwise only the first name on their list would be retained. Moreover, the Secretariat expressed concern that some Members still had not notified either their Enquiry Point and/or the National Notification Authority.

44. The Secretariat observed that Australia had made available copies of a booklet containing public information about the SPS Agreement and its implementation. This sort of information could be relevant for many Members who were trying to find ways to inform their relevant stakeholders about the Agreement. The Secretariat encouraged Members and observer organizations who had prepared similar information documents to share these with other Members.

45. The Chairman reported that documents G/SPS/GEN/840, G/SPS/GEN/842 and G/SPS/GEN/850 summarized the notifications received since the last Committee meeting.

46. The Chairman indicated that the Committee's adoption of revised "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7)" had been confirmed on 30 May 2008. These had now been circulated as G/SPS/7/Rev.3. The Secretariat clarified that because the revision of the procedures would require some changes in the formats, time was needed to modify the new electronic SPS-IMS. The new transparency procedures, including the use of the new formats, would take effect as of 1 December 2008. This would also provide time for Members to ensure that their notification authorities and others were familiarized with the new requirements. The new formats would be available in electronic format through a link in the SPS-IMS, and in the WTO SPS Gateway. In addition, the Secretariat was working on a project to create the possibility of Members' filling-out notifications on-line. This would further expedite and facilitate the notification process.

47. With respect to the "Proposal for a 'Mentoring' System of Assistance Relating to the Transparency Provisions of the SPS Agreement" (G/SPS/W/217), the Secretariat recalled that no financial commitments were required of Members, rather the willingness to share experiences and information. The Secretariat had received mentoring requests from 11 Members, and mentoring offers from five Members. Further mentoring offers would be welcome in order to match the requests. The Secretariat was currently studying the submissions received, and would soon contact Members to match the requests with offers. The Secretariat suggested that Members could submit their requests and offers on the mentoring system on an annual basis.

48. The Secretariat further provided an update on the development of a procedural manual for the operation of Enquiry Points and National Notification Authorities, an initiative led by Australia and New Zealand. The idea of this manual had received positive feedback in the October 2007 Workshop on Transparency, and a draft had been circulated in document G/SPS/GEN/824 for comments. It was currently being revised in light of the new transparency procedures.

## **V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT**

### **(a) Chairman's Report on Informal Meeting**

49. The Chairman reported that at an informal meeting held on 23 June, two specific items were considered: (i) an update by the Secretary of the Committee on Trade and Development Special Session (CTD-SS) regarding the proposals under consideration in that Committee which are related to the SPS Agreement; and (ii) the review of the procedure to enhance transparency of special and differential treatment in favour of developing country Members, contained in G/SPS/33.

50. During the last Committee meeting held in April, a number of Members had pointed out that the Special Session of the CTD was considering a number of proposals relating in particular to Article 10 of the SPS Agreement. For purposes of transparency as well as coherence, it had been suggested that the Chair of the CTD Special Session be invited to provide an update on on-going relevant work in that body. As the Chair was unable to attend the informal meeting, the Secretary of the CTD Special Session had participated and explained that the Special Session had before it two proposals on the SPS Agreement: one proposal relating to Article 10.2 tabled by India and another proposal relating to Article 10.3 tabled by the African Group and a group of developing countries. The specific proposals and the last language considered under each article (in February 2008) had been circulated to all participants.

51. With respect to Article 10.2, the proponents were of the view that the current interpretation of the phrase "longer time-frame for compliance" found in paragraph 3.1 of the Doha Decision on Implementation-Related Issues and Concerns was not sufficient for operationalizing this Article. Therefore, they were seeking to ensure that where the appropriate level of sanitary or phytosanitary protection allowed scope for the phased introduction of new SPS measures, developing countries be

provided with a longer time-frame for compliance amounting to not less than six months. However, other Members had stated that they could not agree to mandatory and minimum time-frames as this would affect their rights under the SPS Agreement to protect human, plant, or animal life or health. It was also pointed out that such an obligation could create disincentives for providing a phase-in period at all. The differences among Members remained conceptual.

52. With respect to Article 10.3 related to the granting of time-limited exceptions by the SPS Committee from obligations under the Agreement, the proponents were arguing that their focus was on ensuring predictability of the process to request such an exception, while other Members were concerned that the proposal would prejudice the outcome of such requests and amount to automatic granting of waivers. Also, some Members had pointed out the need to first put in place appropriate procedures in the SPS Committee, but the CTD Special Session Chairman did not wish to see this as a precondition for the CTD Special Session to move forward on this proposal. In comparison to the proposal on Article 10.2, Members' positions were closer but still divided over specific wording.

53. The CTD Special Session had not been meeting in the last months pending the launch of the expected horizontal mechanism in the Doha negotiations, which was dependent on progress in agriculture and non-agricultural market access (NAMA) negotiations. But the objective of the CTD SS was to come up with specific recommendations on all outstanding proposals.

54. With respect to the review of the procedure to enhance transparency of special and differential treatment in favour of developing country Members, the Chairman had recalled that the Committee had agreed to postpone its review from the April meeting to the June meeting, in light of the linkage with potential changes to the recommended transparency procedures (which were eventually adopted by the Committee).

55. The Secretariat had introduced document G/SPS/W/224, which proposed a revision of document G/SPS/33 to incorporate modifications related to the changes in the general recommended transparency procedures (now in G/SPS/7/Rev.3) and proposals informally submitted by Egypt (Job(07)/104). The draft also proposed a preambular section with the objective of aligning the style and format of this Decision with other Decisions of the Committee.

56. A number of Members had underlined the need to first understand the reasons for the lack of use of the procedure before proceeding with detailed discussions on revising the text of G/SPS/33. The Committee had been adopting Decisions in a number of areas, including on equivalence and consistency; however, it was not clear whether these recommendations were being implemented by Members. Other Members had underlined the importance of moving forward with the Committee's normative work, while also considering implementation issues. They had stressed the need to finalize the review of this procedure in a timely manner.

57. A number of Members had indicated that developing country Members were not able to sort and analyze the large number of incoming notifications in order to take advantage of the procedure set out for requesting S&D. One Member had underlined the useful role that the SPS Information Management System could play in this regard. Others had pointed out that developing country Members were sometimes reluctant to announce any S&D they had received, either because they hoped to limit its benefits to their case, or else because they wanted to avoid revealing publicly any difficulties they may have in meeting standards. In other cases, developing countries were unaware of various mechanisms in place for S&D.

58. As the procedure under review foresaw that the notifying Member submit an Addendum, sometimes it could also be that Members receiving S&D requests had failed to submit notifications to the Committee, possibly out of concern for having to extend treatment to other Members or for raising domestic concerns on issues concerning public health. In addition, one Member had pointed out that

S&D was more often provided in relation to existing SPS measures than new ones, while the procedure under review focused on new measures. In response, one Member had recalled that the S&D agenda item provided an opportunity to report on other S&D cases. It had also been suggested that it would be useful if Members could comment on the sufficiency or value of the S&D treatment they received.

59. At a more general level, the importance of linking S&D to Aid for Trade had been underlined as well as the need to consider the implementation of the various Decisions of the Committee in the context of the upcoming review of the SPS Agreement.

60. With respect to document G/SPS/W/224, some Members had suggested revising the preambular wording regarding the lack of use of the procedure. It had also been pointed out that the Addendum foreseen in step 7 had an item asking whether S&D was requested which was redundant, as such an Addendum would only be submitted if a request had been made.

61. The Committee had decided to revert to document G/SPS/W/224 at its next meeting, with a view to improving it in light of the underlying reasons for the lack of use of the procedure. In the meantime, G/SPS/33 remained valid and consistent with the general recommendations on transparency, as the new transparency formats would not take effect until 1 December 2008.

(b) Review of the Operation of S&D Transparency Procedure (G/SPS/33, G/SPS/W/224)

62. In commenting on the Chairman's report, the representative of Egypt suggested that Members should reflect on why G/SPS/33 was not being used. In addition, Members should decide on a time-frame for concluding the revision of G/SPS/33, similar to what had been done in the discussion on regionalization.

63. The representative of Cuba voiced support for establishing a defined period for concluding the revision of G/SPS/33, and agreed that the discussions should start at the next meeting of the Committee. She stressed the need for an S&D provision that was operational and pragmatic, and suggested that the Secretariat could prepare a revision of G/SPS/W/224 based on the discussions held in the informal meeting.

64. The Chairman invited Members to submit comments on G/SPS/W224 to the Secretariat before the end of July, so that a revised document could be prepared for consideration by the Committee at its October meeting. The Chairman further suggested the inclusion of a periodic review provision in G/SPS/W/224, in order to monitor the implementation of the procedure.

## **VI. EQUIVALENCE**

(a) Information from Members on their Experiences

65. The Secretariat reported that a second notification of determination of the recognition of equivalence of SPS measures had been submitted to the Committee. This notification was by the Dominican Republic with respect to the importation of products and by-products of bovine animals, swine and poultry. The Ministry of Agriculture of Dominican Republic recognized the inspection systems of the Food Safety Inspection Service (FSIS) of the US Department of Agriculture as equivalent to their own (G/SPS/N/EQV/DOM/1).

(b) Information from Relevant Observer Organizations

66. The representative of Codex reported that the Codex Committee on Food Import and Export Inspection and Certification Systems had prepared principles and guidelines on how to carry out

recognition of equivalence. These would be presented for adoption by the next Codex Commission Session, to be held the following week in Geneva.

67. The representative of the IPPC recalled that a standard was adopted with guidelines for determination and recognition of equivalence of phytosanitary measures in 2005. In addition, ISPM 1, which also included principles on equivalence, was revised in 2006. The IPPC had not been informed of any problem regarding the application of the guideline on equivalence on plant protection matters.

## **VII. ARTICLE 6 - PEST OR DISEASE-FREE AREA**

68. The Chairman reported that the adoption by the Committee of the "Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures" had been confirmed on 15 May 2008, and subsequently circulated as document G/SPS/48. The Chairman expressed the Committee's appreciation for the work done by Keawe Woodmore, who had chaired the small group responsible for preparing the guidelines.

### **(a) Information from Members' on their Experiences**

#### *US Recognition of New Pest-Free Areas in Brazil for Curcurbit Fly*

69. The representative of the United States reported its recent recognition of 20 additional municipalities in Brazil as free of the South American cucurbit fly, a major pest of melons. This recognition followed Brazil's request for recognition of the municipalities in the State of Ceará and Rio Grande do Norte as free of this pest. The United States recognized that Brazil had put in place appropriate measures to create areas free of curcurbit fruit fly, consistent with ISPM 4. The recognition was done through a streamlined process for evaluating imported fruit and vegetables, as notified in G/SPS/N/USA/1307 and addenda.

70. The representative of Brazil thanked the United States for the recognition, which proved that the streamlined process was appropriate. Brazil encouraged the use of this streamlined process for other recognitions, in order to avoid undue delays.

#### *Chile's Recognition of Avian Influenza Disease-Free Areas in the United States*

71. The representative of Chile reported that, following a request from the United States, Chile recognized the totality of the US territory, with exception of the State of Arkansas, as free from avian influenza. Arkansas was not recognized due to the outbreak of low pathogenic avian influenza in that State. This decision was communicated to the United States on 13 June 2008, and would be ratified once USDA submitted the necessary documents. Imports from the State of Arkansas of chilled or frozen avian meat were prohibited, but processed avian meat imports were permitted if the meat was boneless and had been heat-treated.

72. The representative of the United States thanked Chile for the recognition granted.

#### *Chile's Recognition of Regions of Brazil as Free of BSE*

73. The representative of Chile further reported that following a request from Brazil, it recognized the States of Paraná, Santa Catarina, and São Paulo as free from BSE. The evaluation of the documents provided, together with on-site inspections, confirmed the free area status.

74. The representative of Brazil thanked Chile for the recognition and the coherent application of regionalization principles. It would wait for the report on the last visit of Chilean inspectors before resuming exports to Chile.

(b) Information from Relevant Observer Organizations

75. The representative of IPPC reported that in July 2008, an open-ended working group on recognition of pest-free areas would be held in Thailand. This working group would undertake a feasibility study on international recognition of pest-free areas. The terms of reference of the working group had been circulated to the Committee, and IPPC would inform the Committee on the outcome of the meetings.

76. The representative of the OIE reported that at its 76<sup>th</sup> General Session in May 2008, a number of resolutions related to recognition of disease-free areas were adopted. These were contained in the annexes to document G/SPS/GEN/853. The International Committee had approved a list of countries or zones that had applied for official OIE recognition of their sanitary status concerning four diseases: BSE, FMD, contagious bovine pleuropneumonia (CBPP), and rinderpest. In addition, new resolutions on procedures for the official recognition and maintenance of country/zone status were adopted. The OIE also recognized a record number of countries' BSE status: the OIE now recognized 41 of its members as having a "controlled risk" or a "negligible risk" status. Five members or zones within members were recognized as free of FMD with or without vaccination, and 13 members received the official status of rinderpest freedom, without the use of vaccine.

77. The representative of the OIE recalled that Members should report on their disease status on other than the four diseases officially recognized by the OIE. The OIE published the information on disease-status. There was a difference between a country's self-declaration of a disease-free status, and the formal declaration issued by the OIE, which was based on a detailed verification and on-site visit by OIE experts, and officially recognized at OIE's annual general session.

78. The representative of Chile stressed the importance that should be given to the recognition granted by the relevant international standard-setting organizations. The representative of Cuba noted that it was important that Members report on their experiences on regionalization under this agenda item, so that the Committee could assess real cases and analyze where progress had been achieved. The Secretariat noted that it could include a reminder in the airgrammes that Members should report on their experiences on regionalization under this agenda item.

## **VIII. TECHNICAL ASSISTANCE AND COOPERATION**

(a) Information from the Secretariat

(i) *WTO SPS Activities*

79. The Secretariat drew attention to document G/SPS/GEN/521/Rev.3, which contained an updated overview of all SPS technical assistance activities provided by the WTO Secretariat from September 1994 through December 2007. Since 1994, the WTO had provided a total of 158 SPS-specific technical assistance activities, with an overall participation of 6,400 participants to date. In 2007 alone, 14 specific technical assistance activities were provided, including four regional seminars, seven national seminars, two courses organized by other organizations, and two specialized courses on the SPS Agreement.

80. A second document, G/SPS/GEN/851, provided an overview of the SPS technical assistance activities undertaken and planned for 2008, including regional and national seminars, the specialized course, and e-Training courses.

(ii) *Standards and Trade Development Facility (STDF)*

81. The Secretariat indicated that document G/SPS/GEN/847 gave an overview of STDF activities. In addition, a newsletter with the latest information about the STDF was distributed to the Committee. A total of 27 projects and 28 Project Preparation Grants had been funded by the STDF.

82. In line with the Medium-Term Strategy decision, more attention was being given to the STDF as a coordinating mechanism. One example of this had been the workshop on capacity evaluation tools which had been held back-to-back with the March 2008 meeting of the SPS Committee. Likewise, the STDF had organized an information session on private standards which would take place immediately after this meeting of the SPS Committee. This information session would focus on developments in the area of private standards since the June 2007 information session, and draw conclusions with regard to SPS-related technical assistance. On 6 October 2008, the STDF would coordinate a workshop on Good Practice in SPS-related technical assistance, which would build on Aid for Trade activities. Research work was on-going in Central America, East Africa and in Cambodia, Lao PDR and Viet Nam on the basis of good-practice examples identified by Members. The focus of the workshop would be on how to apply the OECD Paris Principles on aid effectiveness to the highly technical SPS area. In the margins of the first meeting of the SPS Committee in 2009, the STDF would organize a workshop to consider cost-benefit analysis related to SPS technical assistance. Work undertaken by the OIE regarding costs of prevention vs eradication, as well as work by the World Bank and others looking at the economic costs and benefits of SPS measures, would be presented.

83. STDF work in the context of Aid for Trade activities was explained in document G/SPS/GEN/812. Workshops had been held on 21-22 May in Phnom Penh with regard to Cambodia, Laos PDR and Viet Nam; on 28-29 May in Kampala considering studies undertaken in Kenya, Tanzania, Uganda and Rwanda; and on 11-12 June in Guatemala City to review studies undertaken in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. These regional reviews analyzed existing SPS-related capacity evaluations from these countries, as well as ongoing and planned technical assistance, to identify outstanding needs and priorities not covered by existing or planned activities. A number of similarities emerged in the "balance sheets" across the three regions, including difficulties with respect to: institutional capacity (particularly in least-developed countries); co-ordination; legal regimes; enforcement; and raising awareness of all relevant stakeholders. There were also specific concerns, in particular relating to certain pests or diseases, and in some cases to testing, inspection and certification. The background research for these regional consultations identified some common drivers for the provision of technical assistance, such as WTO accession and regional or bilateral free trade agreements, as well as specific issues such as technical assistance relating to avian influenza.

84. The Secretariat drew some conclusions regarding the outcome of this one-year project. Although the primary aim was to mobilize resources to address outstanding technical assistance needs, the reality was that donors all had their own particular funding cycles and responses could not be expected outside of that context. Further actions to translate the priorities identified through this work into bankable projects were necessary. SPS was only one of many concerns, and had to be seen in the context of structural issues particularly those related to the existence of certain pests and diseases (e.g. classical swine fever, foot and mouth disease, fruit flies). The key issue was to keep SPS in focus, and there had been some positive results from the project, but there was also the need to monitor the follow-up by beneficiary and donor countries. It was clear that the STDF needed to follow the results of this project, and to inform others, as would be done in formal communications to the Committee on Trade and Development meeting on Aid for Trade on 14 July 2008. Work was on-going to establish a compendium of SPS-related technical assistance providers, as well as a functioning database on assistance provided.



85. The Secretariat also noted that several Members had raised issues relating to fruit fly control measures during the meeting. It was clear that this pest caused significant damage to production of various products, and resulted in trade restricting measures. The STDF has initiated efforts to improve coordination among the various stakeholders involved in activities to control fruit fly in West Africa and ensure an effective cross-border response. A recent study by the European Communities provided an opportunity to develop a common approach that could be used by different donors and beneficiaries. Agreement on effective methods of control were being pursued, and the STDF would participate in the dissemination of the results, most likely through a meeting to be organized late in 2008.

(b) Information from Members

*Paraguay – Information on Various Technical Assistance Activities*

86. The representative of Paraguay expressed gratitude to the WTO, IDB-INTAL, and IICA for organizing and delivering an SPS regional workshop in Asunción in April 2008. In addition, Paraguay reported on a Workshop on Good Agricultural Practices, given by instructors from Argentina's National Institute of Agricultural Technology (INTA). Paraguay also praised the cooperation with the Chilean Agency for International Cooperation (AGCI) and the Chilean Agricultural and Livestock Service (SAG), which allowed experts from both SENAVE and SENACSA to receive training and share experiences in sanitary, phytosanitary and seed-related matters. Furthermore, the European Union had sponsored a MERCOSUR SPS project, which provided a study tour to the European Union for MERCOSUR officials. Lastly, Paraguay reported on a Codex Alimentarius Course, entitled "The Codex Alimentarius Regulatory Process and You". Twenty-four experts from the public and private sectors attended the course which was transmitted by videoconferencing from Costa Rica, and with the simultaneous presence of experts from Argentina, Brazil, Chile, Paraguay, and Uruguay. More details on these activities is provided in document G/SPS/GEN/852.

87. The representative of the United States presented an update to document G/SPS/GEN/181 on SPS trade capacity building efforts. Between June 2006 and May 2008, the United States sponsored 420 SPS technical assistance projects in 124 developing countries, accounting for more than US\$ 22 million. The representatives of Chinese Taipei and the Dominican Republic thanked the United States for the technical assistance provided to them.

(c) Information from Observers

88. The representative of Codex indicated that the Codex did not provide technical assistance directly, but its parent organizations, the FAO and WHO, provided assistance in various areas related to food safety. The Codex had a trust fund which sponsored the participation of officials from developing countries and economies in transition to participate in the Codex meetings. This programme aimed at enhancing those officials' level of participation in the elaboration of Codex standards. One key principle was to provide more support to LDCs to participate in the Codex meetings. In 2007, the trust fund financed the participation of 230 officials to attend 16 Codex meetings. This year it was expected that 314 officials, from 90 countries, would be assisted to participate in Codex meetings. The Codex thanked donor countries for their continuous support, and reported that in 2007 Malaysia had announced that it would contribute to the trust fund, after benefiting from it in the past.

89. The representative of the IPPC referred to a project on biosecurity to assist governments establish national surveillance systems. IPPC was currently assessing standards to prepare new technical assistance projects, such as projects on certification, pest risk analysis training, capacity evaluation workshops, and others. Its main objective was to build human capacity in various regions.

90. The representative of the OIE reported that due to budget constraints, it was difficult to carry out technical assistance programmes. However, the Performance, Vision and Strategy (PVS) tool related to animal health had been conducted in many countries to identify their needs and priorities, in order to solve existing problems. The OIE had received 36 official requests from Africa, and 28 missions to undertake the PVS had been completed to date. Of these, 15 countries had agreed to lift the confidentiality of their reports to some organizations, such as FAO and the World Bank, as well as to the European Communities and other large donors, with the aim of identifying funds to sponsor new TA programmes. In addition, the OIE supported the participation of developing countries in the elaboration of standards by ensuring that experts from every region participated in developing the draft text of a scientific standard.

91. The representative of the European Communities reported that they provided SPS-related technical assistance on a regular basis and this would be increased due to recent developments related to food security and food price escalation. The lack of investment in agriculture and underinvestment especially in the SPS area were among the causes of higher food prices. New assistance programmes would be implemented in Africa. The European Communities also supported the OIE's capacity evaluation tool (PVS).

92. The representative of IICA referred to document G/SPS/GEN856, which presented some of the technical assistance that IICA had provided. For the 17<sup>th</sup> time, IICA was sponsoring the participation of some American countries to attend the Committee meeting through the Americas Initiative. This would be the penultimate meeting for which that this project would be able to finance the participation of government officials to come to Geneva. IICA was also implementing STDF project 108, which aimed at strengthening institutions related to SPS issues. IICA had been involved in the implementation of a Performance, Vision and Strategy tool on plant health in Costa Rica, and on food safety in Bolivia. IICA had organized, with the assistance of Codex and FAO, a basic course on the Codex Alimentarius which lasted for two days and had the participation of more than 500 people. IICA also participated in the organization of the WTO/IDB-INTAL SPS regional workshop in Paraguay, in April 2008.

93. The representative of OIRSA referred to document G/SPS/GEN/857 which reported on the organization's recent activities, including activities in Honduras, Nicaragua, El Salvador, Panama, and Dominican Republic. These activities covered a broad range of SPS assistance in those countries.

## **IX. OTHER ISSUES ARISING FROM THE REVIEW OF THE OPERATION OF THE SPS AGREEMENT**

### **(a) Use of Ad Hoc Consultations**

94. The Chairman recalled that Argentina and the United States had both submitted proposals on ad hoc consultations in documents G/SPS/W/219 and G/SPS/W/227, respectively. The representative of Argentina indicated that its proposal (G/SPS/W/219) aimed at establishing working procedures for the use of the good offices of the Chairperson. Working procedures could facilitate the use of this mechanism, which had significant cost-benefits compared with the costs incurred in bringing a case before the WTO dispute settlement mechanism. Argentina stressed that the solutions reached through good offices of the Chairperson should not be binding on the Parties, nor should they diminish Members' rights to pursue formal dispute settlement. Argentina considered its proposal to be compatible with that of the United States.

95. The representative of the United States affirmed that it believed that the Committee meeting process, coupled with bilateral discussions, remained the best forum for Members to raise concerns regarding SPS measures and related technical issues (G/SPS/W/227). The scientific basis of SPS measures, and related technical issues, were often complex and Members could gain a better

understanding of the concerns if they had the opportunity to consult with one another within the context of a formal procedure under Article 12.2. Such consultations could involve discussions on the technical aspects of the measure and scientific support, as well as explore other related issues, including the possibility of technical exchanges or special and differential treatment, whenever available. The United States welcomed the possibility of working with Argentina on how to establish this mechanism.

96. The Secretariat provided an update of the discussions in the non-agricultural market access NAMA negotiations to develop a mechanism for resolution of non-tariff barriers, since this mechanism might also embrace SPS-related aspects. The latest version of the proposed mechanism was circulated on 9 May 2008, in document TN/MA/W/106. At the end of May, the United States had tabled a paper in the NAMA negotiations, entitled "Committee-First" (Job(08)/45). In its proposal, the United States argued that the relevant Committees should be considered prior to recourse to an horizontal mechanism.

97. The representative of Canada stated that they supported a flexible mechanism for ad hoc consultations. A more rigid procedure could prevent the solving of disputes in a pragmatic way. Canada recalled the mechanisms available at the OIE and IPPC for discussions at the technical level, which should not be forgotten during the Committee's discussions.

98. The representative of Japan observed that Argentina was one of the proponents of a so-called horizontal mechanism in the NAMA negotiations on non-tariff barriers. Japan also expressed concerns on the time-frames proposed in Argentina's paper.

99. The representative of Chile welcomed the opportunity for further work on the basis of the two proposals by Argentina and the United States, noting that the differences were not too great. The good office mechanism was already provided by the SPS Agreement, so discussions should focus on ways to avoid formal dispute resolution cases.

100. The representative of Cuba considered the two proposals to be complementary, and suggested that Argentina and the United States prepare a joint document for consideration by the Committee. Cuba favored an expedited and efficient manner to solve any eventual dispute which might arise. While Cuba believed that specific SPS issues should be dealt with in the SPS Committee, a mechanism for the practical resolution of problems could be complemented by the process under discussion in NAMA.

101. The representative of the European Communities recalled that they were a large food importer and placed great importance on any mechanism relating to SPS trade problems. They suggested the focus should be on making use of the existing mechanisms rather than creating new ones. The European Communities were concerned about the ambitious time-frames envisaged in Argentina's proposal. In addition, the possible involvement of the three international standard-setting organizations could imply further costs to those organizations. The European Communities considered that it would be difficult and risky to expect the Chairperson of the SPS Committee to issue a decision in a dispute involving two Members.

102. The representative of Egypt suggested that it would be possible to create linkages between the proposals on consultations and the S&D provisions, including the ones highlighted in G/SPS/W/224.

103. The representative of Argentina clarified their view that the choice of which mechanism to use would be based on its feasibility in a specific case, and that the mechanism being developed on SPS should be compatible with what was negotiated in the horizontal process. Furthermore, neither proposal was a final text, and any rigidities in the proposals could be worked out in future discussions.

104. The representative of the United States indicated that they would work with Argentina to converge both proposals, and welcomed any suggestions to enhance the ad hoc consultation mechanism. The United States also believed that SPS matters should be excluded from other mechanisms outside the SPS Committee.

(b) Relationship between the SPS Committee and Codex, IPPC and OIE

105. The representative of Japan proposed that the SPS Committee organize a workshop on the standard-setting procedures of Codex, OIE and IPPC, in order to address a number of cross-sectoral issues under consideration, such as regionalization and private standards (G/SPS/W/226). Furthermore, new developments had occurred in the work of these organizations since the workshop on standard-setting held in March 2001 (see G/SPS/GEN/250). A workshop could assist developing countries to better understand the international standards in more depth.

106. The representative of Chile supported Japan's proposal and recalled that the three organizations did not have systems to monitor the use of their standards. The new recommended procedures on transparency (G/SPS/7/Rev.3) could assist Members in monitoring the use of international standards.

107. Many Members supported the proposed workshop and considered it would be of value to both developed and developing country Members. The representative of New Zealand suggested that the three international standard-setting organizations be invited to address: (i) what actions could be taken by Members and by the SPS Committee to improve coordination and avoid duplication of work; (ii) what was the most effective way for a Member or the SPS Committee to bring an issue of concern to the attention of the standard-setting bodies; and (iii) how to ensure better flows of information between the organizations and the Committee, including information about what each body was doing. The representative of Egypt proposed that the workshop also address the issue of how developing countries could coordinate the work of the three standard-setting organizations with the work of the SPS Committee.

108. The representatives of the Codex, IPPC and OIE indicated that they would be happy to participate in such a workshop. The representative of the IPPC stressed the importance of delegates participating in the SPS Committee being aware of the international standards-setting processes. The representative of the OIE reported that every year the OIE put a lot of efforts into the training of delegates attending OIE meetings for the first time. It would be useful for Members to share their experiences on how to coordinate at the national and international levels. The representative of Codex indicated that they regularly invited the OIE to participate in relevant Codex committees. In an upcoming workshop on food hygiene, the OIE was invited to report on their activities so as to avoid duplication of work.

109. The Secretariat was requested to prepare a draft programme for the workshop, for consideration by the Committee. The Secretariat welcomed the proposed workshop and noted that a workshop had been foreseen in the budget of WTO technical assistance for 2009. The most appropriate time for such a workshop would be at the time of the October 2009 Committee meeting.

## **X. MONITORING THE USE OF INTERNATIONAL STANDARDS**

(a) New issues

110. No Member raised any new issue under this agenda item.

(b) Issues previously raised

111. There was no further discussion on issues previously raised.

(c) Adoption of annual report (G/SPS/W/223)

112. The representative of Chile observed that there was actually little substantive monitoring of the use of international standards. The changes to the transparency procedures contained in G/SPS/7/Rev.3 would provide the Committee with an effective new instrument for monitoring, and at some appropriate time the Committee might wish to improve the monitoring procedure to ensure that the use of international standards was actually monitored, as foreseen in Articles 3 and 12 of the SPS Agreement.

113. The representative of IPPC indicated that at its last meeting, the Commission on Phytosanitary Measures (CPM) had established an open-ended working group to discuss a possible IPPC compliance mechanism. Rather than an enforcement mechanism, which was thought to be contrary to the objectives of the CPM, the decision had been to develop a system to monitor the use of IPPC standards which could also identify emerging issues before they became disputes. A standards implementation officer would be engaged for this purpose. The new procedures would allow the IPPC to identify which standards were being used, partly through capacity-building aimed at identifying areas where there were difficulties. A database would be established, and every three years the IPPC would look at the degree to which Members were able to implement standards. The recent evaluation of the IPPC had shown that often standards were not implemented because they were not relevant, e.g. if a country was not exporting and didn't need to establish pest-free areas, or if a country was not trapping for fruit flies because of climatic reasons. More information was contained in document G/SPS/GEN/849.

114. The representative of the OIE indicated that the OIE likewise had no policing responsibility or mechanism for monitoring the implementation of OIE standards. It relied on dissatisfied members seeking the OIE's assistance to resolve problems. The OIE was not planning to develop a monitoring mechanism, which would have resource implications.

115. The representative of Chile noted that many countries did not follow OIE standards. For example, while the OIE Code established a six month period after an outbreak of classical swine fever to stamp out the disease, many countries required twelve months. If many Members deviated from international standards without having a scientific justification, Chile was concerned that the international standard-setting bodies might be producing standards that were not being widely used. The SPS Committee might be able to monitor this, together with the three organizations. Chile considered that looking at private standards could be a second step; first the Committee should monitor if official standards were based on international standards.

116. The representatives of Argentina and Uruguay agreed that once the new transparency recommendations were in force, the Committee could use the information provided by Members on notifications for monitoring the use of international standards.

117. The Secretariat recalled that Articles 12.4 and 12.5 foresaw a much more elaborate mechanism than the procedure eventually adopted by the Committee. For many years, the Committee had discussed the need for a pragmatic procedure that would allow monitoring where international standards caused difficulties or were lacking. The text of the Agreement called for the creation of a list of important international standards against which Members could compare their national regulations. The Committee had decided to adopt a streamlined procedure, requesting Members to identify only problematic cases. Where the procedure had been used and problems had been identified, there had been an immediate response from the relevant standard-setting body and

problems had been solved quickly. But in the previous year, the procedure had not been used. The new transparency system might encourage Members to be more conscientious about providing information on their use or non-use of international standards in their notifications. After one or two years of implementation, there might be sufficient information to re-examine the monitoring procedure to see whether it could be improved.

118. The Committee agreed to consider the monitoring procedure in light of the information gained from notifications under the new notification procedure and the implementation of the IPPC mechanism. Members were also encouraged to provide information on obstacles they encountered when exporting, not just on national measures applied to imports. The Committee adopted the tenth annual report on monitoring the use of international standards (G/SPS/49).

## **XI. CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS**

### **(a) Report of the informal meeting**

119. The Chairman reported that at the informal consultation on private standards held on 23 June, he had reminded delegates of the proposal to establish a small, informal working group on this subject. The informal meeting had been convened to further consider that proposal. The subjects that had been proposed for discussion were the membership of such a group, who would chair it, what would be its objectives and terms of reference, and any other points Members wished to raise.

120. The representative of Uruguay had introduced document G/SPS/W/225 proposing terms of reference for the working group. Many Members had expressed appreciation for Uruguay's proposal, supporting either the document as a whole or certain aspects they found interesting. A few Members had indicated that the proposal was a good basis for discussions, and had offered to make suggestions to improve the text at a later stage. Others had indicated that they had only very recently received the document and needed more time to analyze it fully.

121. Regarding the terms of reference, many Members had supported Uruguay's suggestions. Other Members had noted that the proposal was quite ambitious, that it focused only on negative aspects of private standards, and that the proposed text seemed to prejudge the outcome of the small group's discussions in some instances. A large number of Members had supported the proposal that the group should concentrate on SPS-related private standards only. Many had favoured concentrating on trade effects of private standards. One Member had suggested discussing the impacts of private standards on the operation of the SPS Agreement, and how these impacts might be addressed.

122. Some Members had indicated the usefulness of studying real world examples of the impact of private standards to get to the heart of the issue; others had considered that enough examples already existed. Many Members had supported Uruguay's proposal to study the deviations of private standards from international standards. Some Members had cautioned that this would be difficult, and that private standards did not always contradict official measures or international standards but often complemented them.

123. Some Members had been in favour of conducting a legal analysis of private standards in relation to the SPS and TBT Agreements, and had also indicated a need for cooperation between the SPS and TBT Committees.

124. Some Members had favoured discussing possible actions for governments as well as for the Committee to address concerns related to private standards. It had also been suggested that the working group itself could continue discussing the terms of reference and make a proposal to the Committee at a later stage.

125. Regarding the size of the working group, several Members had noted that smaller groups tended to be more effective and make progress more quickly. Others had thought that it would be difficult to limit participation in the small group to a few Members, given the broad interest in the topic. One Member had suggested that the group could subdivide into smaller groups to address certain issues; another Member had suggested breaking the group down according to working language.

126. There had also been suggestions that the Members who had taken the floor at the informal consultation should be the members of the working group, or that the membership in the group should represent all geographic regions, levels of development and points of view on the issue.

127. In terms of the working procedures, some had favoured an informal, friends of the chair-style process, while others had stressed the need to clearly define the objectives of the group. Many Members had thought the three sister organizations should participate in the working group; others had proposed also inviting UNCTAD and OECD. Some had also proposed exchanging information with private standards bodies, and inviting them to participate in the group. Others had been against expanding group membership beyond WTO Members and the three sister organizations. Many Members had indicated that the Committee should be kept well-informed of discussions in the working group.

128. Regarding the chairmanship of the small group, there had been a few specific suggestions, including that Uruguay or New Zealand should chair. While some Members had preferred that a developing country representative chair the group, others had not thought this important, and several Members had proposed that the Chairman of the Committee should chair the working group.

129. Many Members had wanted to ensure that interpretation into all three languages would be provided to the working group.

130. Several Members had stressed the need to make progress quickly on the issue, which had already been under discussion in the Committee for three years, and some had noted that the working group was only the first of a series of steps to be taken by the Committee.

131. The representative of Codex had indicated that the Codex secretariat was prepared to participate in the group, but that statistics on the use of Codex standards did not exist. He had suggested that Members should bring specific examples where private standards deviated from Codex standards, and had asked for an explanation of Uruguay's proposal of an analysis of the deviation of private standards from Codex standards. Private standards were market-driven, and not necessarily based on science. The WTO Secretariat had been invited to highlight these concerns to the Codex Alimentarius Commission the following week.

132. The representative of Uruguay had drawn attention to information submitted by the OIE, including a resolution adopted at the recent OIE General Session.

133. At the end of the informal meeting, the Chairman had noted that while there was no objection to the formation of a working group, there were clearly different ideas regarding its terms of reference, size and membership. He had concluded by promising to come back to the Committee with some suggestions at the regular meeting.

134. After concluding his report on the informal consultations, the Chairman indicated that he had given some thought on to proceed on this issue. He noted that there seemed to be agreement on some points, including:

- The need to define and focus only on the SPS-related aspects of private standards;
- The need for a clear picture of the positive and negative aspects of the implementation of private standards;
- That eventually the Committee should see what it could contribute to reducing the negative aspects of private standards; and
- The need to identify very clearly what specific actions the Committee should pursue, and in what order, to reach a practical result as quickly as possible.

135. The Chairman recalled that in previous meetings, the Committee had gathered information on the various types of private standards, and on what was being done by the largest private-standards bodies. The Committee had also been presented with the results of a number of studies, including those of UNCTAD on development and trade effects, and the study by the United Kingdom on the legal relationship between the SPS Agreement and private standards (G/SPS/GEN/802). The Committee would learn more about some actions and initiatives that had been taken to facilitate compliance with private standards at the STDF information session on private standards scheduled for 26 June. But while there was still a lot of information that it would be nice to know, the Chairman suggested that the Committee needed to focus on what it needed to know in order to identify the appropriate actions to take.

136. The discussion at the informal consultation had made it clear that many Members were concerned about this issue, and a number of interesting suggestions had been made. The Chairman thanked Uruguay for having provided a document to help the Committee focus its discussions.

137. At the same time, despite three hours of lively discussions, the Committee still had not resolved any procedural issues, much less advanced on the substance of the matter. In order to focus on practical aspects, the Chairman indicated that:

- (a) He would prepare, with the assistance of the Secretariat, a series of questions to Members. These questions would draw on the suggestions in the proposal by Uruguay or suggestions made by other Members during the discussions;
- (b) The Chairman would circulate these questions, in English, French and Spanish, to all Members and invite them to provide very specific suggestions in response, via e-mail to the Secretariat, well in advance of the Committee's next regular meeting;
- (c) The Chairman would convene an informal consultation with those Members who had provided specific answers or proposals in response to the questions; and
- (d) The Chairman would report to the next meeting of the Committee on the informal consultations, with suggestions on how to further proceed. All interested Members would be invited to react at that time.



138. The representative of Uruguay agreed with the Chairman's proposal and indicated that the issue caused great concern among Members, as it did at the OIE. He urged the Committee not to lose time and to define the working group in October, with an action plan that would allow work to begin. He stressed the need for interpretation at the consultations in October, so that all Members could participate. The objective of the terms of reference proposed by Uruguay was not to conclude that private standards were bad, but to focus the discussion of the topic, make a diagnosis, and start moving towards an objective, e.g. harmonization of private standards and ensuring that they followed international standards on SPS aspects.

139. Many Members supported the Chairman's proposal, and several suggested that a compilation of documents related to private standards would be useful. The representative of Chile noted that unlike other issues, there were not many documents from Members to serve as the basis for work by a working group. He considered, therefore, that a questionnaire as proposed by the Chairman could be useful.

140. The representative of the OIE asked for clarification of the role to be played by international organizations. The OIE was happy to be engaged and could reply to the planned questionnaire, if requested. At the recent General Session, the OIE had looked at private standards in the areas of animal health and animal welfare. What concerned OIE members were private standards that were in conflict with OIE standards because this could affect consumer confidence, undermine official standards, and make market access difficult. Since there were many private standards, emphasis should be on instances where they were in conflict with official standards. Private standards sometimes emerged where there were gaps or needs not recognized by international standard-setting bodies. The representatives of Belize and Brazil agreed with the OIE's suggestions.

141. The representative of Cuba suggested that the questionnaire should target both Members who were experiencing market access problems and Members who were using private standards. Two questionnaires might be needed, one for those who were applying private standards, and another one for those who had to comply with them. Private standards bodies should participate in this process, as should UNCTAD and OIE. In this way the questionnaires would contribute to transparency and information exchange.

142. The representative of Argentina requested that the questions be circulated soon to allow sufficient time to prepare replies and suggested that the Secretariat also prepare a document to define the problem. There were many different private standards, and it was not clear which ones contained SPS aspects. As an example, she cited work done in the Committee for Trade and Environment to identify trade measures in multilateral environmental agreements as a basis for that Committee's work.

143. The representative of Benin indicated that the lack of transparency of private standards was a cause of concern. He referred to work carried out by UNCTAD and FAO, and suggested that the Committee look at negative impacts of private standards and at ways to lighten the burden for small farmers. He suggested inviting the initiators of private standards to the table to allow for dialogue.

144. The representative of Uruguay noted that the questionnaire would be based on Uruguay's proposal and on discussions at the informal consultations. While few Members had submitted documents on the subject, there was a Secretariat document as well as submissions from UNCTAD and others. The process outlined by the Chairman was a first step; later the Committee could decide whether it was necessary to refine the group. He suggested that the group should only include the three sister organizations, not other organizations, although it could obtain relevant information from private standards bodies.

145. The Chairman clarified that the questionnaire would be circulated during the following week as a JOB document<sup>2</sup>, and those who replied to the questionnaire would be invited to participate in the working group. The responses would be shared among all those who had replied through an informal e-mail exchange and later circulated to all Members. The questionnaire would cover both the mandate of the working group and focus on identifying practical actions that the Committee could undertake. The Chairman would inform the Committee on regular basis of the discussions in the working group.

## **XII. MATTERS OF INTEREST ARISING FROM THE WORK OF OBSERVER ORGANIZATIONS**

146. The representative of Codex indicated that document G/SPS/GEN/845 contained information on Codex meetings held since the last meeting of the SPS Committee. He highlighted that the upcoming session of the Codex Alimentarius Commission the following week in Geneva would adopt annual work presented by Codex committees. This included many new standards covering maximum levels for several contaminants, maximum residue limits for pesticides, and additives. The document also contained information about upcoming Codex meetings, including a new round of meetings of regional coordinating committees, where private standards would be discussed, among other subjects.

147. The representative of the IPPC explained that G/SPS/GEN/848 contained information on the IPPC's standard-setting programme, while G/SPS/GEN/849 contained a summary of decisions made at the last CPM. The CPM had established a new category of documents called "recommendations". The first adopted recommendation was on the replacement or reduction of the use of methyl bromide as a phytosanitary measure; previous recommendations, e.g. such that IPPC contact points liaise with SPS enquiry points, would also be captured in the new document series. The IPPC faced an ambitious standard-setting programme, which was very resource-intensive. Of a total of 169 IPPC members, 129 members had been present at the CPM, and Benin was expected to soon become the newest IPPC member. Under the dispute settlement agenda item, IPPC members had raised concerns related to private standards and the IPPC secretariat was to prepare a paper on this issue.

148. The representative of the OIE indicated that document G/SPS/GEN/853 contained a report of the OIE General Session held in May. She highlighted the collaboration at highest level between the three sister organizations, which took place in addition to participation in relevant technical groups and committees. New texts adopted at the General Session addressed the role of veterinary services in food safety, and trade in animal commodities or products. Currently, OIE work was based on disease freedom or incidence; now the OIE was examining trade in products that had been treated to make them safe. The OIE was also working on the effect of climate change on animal diseases. The OIE was organizing two international conferences: one on the implementation of the OIE's animal welfare standards in Egypt in October 2008; a second conference in Argentina in March 2009 would focus on animal identification and traceability. The programme for this second conference had been developed in technical collaboration with Codex. The OIE had also adopted resolutions on (1) participation of small farmers in official animal health programmes; (2) private standards, and (3) emphasizing the importance of the OIE mandate for food security.

149. The representative of Canada drew attention to the IPPC's resource concerns. SPS Committee Members often referred to the importance of international standards. He encouraged Members to pay attention to these resource constraints, and try to ensure adequate funding for the three sisters' work. The representative of the European Communities echoed Canada, highlighting the reviews of IPPC and Codex that were part of the independent evaluation of FAO. He asked Members participating in this process to emphasize the importance of preserving funding for both the IPPC and Codex.

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<sup>2</sup> The questionnaire was subsequently circulated as JOB 08/58 on 3 July 2008.

150. The representative of UNCTAD reported on the recently held 12<sup>th</sup> session of UNCTAD in Ghana, and on two related workshops on sustainability standards held in Ghana and Tanzania. More information was available at [http://www.unctad.org/trade\\_env/index.asp](http://www.unctad.org/trade_env/index.asp).

151. The Secretariat drew attention to a document submitted by the WHO, circulated as G/SPS/GEN/855.

### **XIII. OBSERVERS – REQUESTS FOR OBSERVER STATUS**

152. The Committee agreed to invite those organizations which had been granted observer status on an ad hoc, meeting-by-meeting basis to participate in its next meeting. The Committee also decided to invite all observer organizations to participate in its next informal meetings.

153. The Committee was unable to reach any decision with regard to the requests for observer status from the Office International de la Vigne et du Vin (OIV), from the Asian and Pacific Coconut Community (APCC), from the Convention on Biological Diversity (CBD), or from the Gulf Cooperation Council Standardisation Organization (GSO). The Committee agreed to revert to this matter at its next meeting.

### **XIV. CALENDAR OF MEETINGS FOR 2009**

154. The Committee adopted a calendar of meetings for 2009 (G/SPS/GEN/860). Meetings were tentatively scheduled for 24-26 February; 23-25 June and 13-15 October 2009.

### **XV. OTHER BUSINESS**

155. The representative of the European Communities informed the Committee that the International Food and Agricultural Trade Policy Council (IPC), had organized a workshop on an interesting report on EU and US requirements for imports of green beans and shrimp. This was scheduled to take place on 26 June at the Graduate Institute next door to the WTO.

156. The representative of Senegal raised concerns regarding mango exports from Senegal to the European Communities. In 2007, the rapid alert system had warned that the limit for a post-harvest product had been exceeded. In fact, this information had been based on a testing error. Senegal had asked for it to be corrected in the rapid alert system, but had received no response. Only one exporter had been concerned, but all mango exports from Senegal were being affected. Senegal asked the European Communities to lift the sanctions.

### **XVI. DATE AND AGENDA OF NEXT MEETING**

157. The Secretariat invited Members to submit documents early and in electronic form, if possible. Due to the very heavy workload in October, including the 4<sup>th</sup> specialized SPS course and an ongoing dispute in addition to the Committee meetings, it was particularly important that Members respect the deadlines.

158. The next meeting of the Committee is tentatively scheduled for **8-9 October 2008**, with informal meetings on special and differential treatment and on the past and future reviews of the SPS Agreement scheduled for **7 October**. The workshop on best practice in SPS-related technical assistance will be held on **6 October**.

159. The relevant deadlines for submitting items for the agenda are as follows:

- (i) For responses to the questionnaire on private standards (JOB08/58): **Tuesday, 22 July 2008;**
  - (ii) For identifying new issues for consideration under the monitoring procedure, and for requesting that items be put on the agenda: **Thursday, 25 September 2008;**
  - (iii) For the distribution of the airgramme: **Friday, 26 September 2008.**
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