
Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 25-26 FEBRUARY 2009

Note by the Secretariat¹

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¹ 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-third regular meeting on 25-26 February 2009. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3319).

II. ACTIVITIES OF MEMBERS

2. The representative of Australia provided information on an independent review of Australia's quarantine and biosecurity arrangements. A report of the review was released by the Australian Government on 18 December 2008. The review had found that the Australian biosecurity system was sound and had made recommendations aimed at improving the system to deal with increasing biosecurity risks. The Government of Australia agreed in principle with the 84 recommended reforms. The review was the first of its kind in over a decade and recommends the biggest reforms to Australia's biosecurity system in more than a century. Key recommendations included a new authority bringing together the major functions of Biosecurity Australia, the Australian Quarantine and Inspection Service and parts of the Department of Agriculture, Fisheries and Forestry; a new biosecurity commission to assess the biosecurity risks of imports, with greater emphasis on risks to human health and the environment; new biosecurity legislation to replace the Quarantine Act of 1908; appointment of an Inspector-General of Biosecurity with broad powers to audit and investigate the authority's work; a new council of experts to advise the Government; and better coordination of states, territories, industry and the Commonwealth to monitor biosecurity risks before and after goods enter the country. The representative of Australia advised that the independent panel undertaking the review had consulted widely, including meeting with the permanent representatives of a number of Members of the WTO and many of their relevant agencies and ministries. Australia thanked relevant WTO Members for time and expertise provided to the panel and preparation of submissions to the review. Implementing the proposed reforms would take some time and would be subject to budget considerations. Existing systems would continue to operate until the new arrangements were in place.

3. The representative of the European Communities provided information on an agreement with Switzerland on trade in agricultural products. Live animals and animal products could now be freely circulated across 27 EC member States and Switzerland. Swiss and EC legislation, although similar, remained different, but had been recognized as equivalent. More information and links to relevant legislation are contained in document G/SPS/GEN/896.

4. The representative of Switzerland emphasized that this was an important step forward in an equivalence process that had started more than ten years ago. Mutual trust had been gained, which allowed eliminating trade barriers by removing the partial duplication of measures for imports entering Switzerland through the European Communities. There were no changes for imports of the relevant products into Switzerland since the requirements had been previously adapted.

5. The representative of the United States provided information on a US Food and Drug Administration (FDA) recall of peanut-containing products. In December 2008, an investigation of a *Salmonella Thyphimurium* outbreak in the United States found that peanut butter and peanut paste produced by the Peanut Corporation of America (PCA) at its Blakely, Georgia processing plant were sources of the outbreak. The facility was not currently operating. PCA had initiated voluntary recalls of peanut butter and peanut paste. PCA had distributed potentially contaminated products to more than 300 consignee firms for use as an ingredient in hundreds of different products such as cookies, crackers, cereal, candy and ice cream. Many companies that had received products and ingredients manufactured by PCA had also conducted voluntary recalls. FDA had created a searchable database for these products that could be found at <http://www.accessdata.fda.gov/scripts/peanutbutterrecall/index.cfm>. FDA was conducting a criminal investigation and had been in contact with the International Food Safety Authorities Network

(INFOSAN) of the World Health Organization to alert the international community of this outbreak. FDA had also alerted 52 countries and territories where recalled products may have been shipped. The United States encouraged all trading partners to remain in close communication with FDA during this outbreak. FDA was continuing to identify products that may contain recalled peanuts or peanut products to facilitate their removal from the marketplace.

6. The representative of Brazil provided information on the expansion of the National Residue Control Plan. Brazil had notified Members of its National Plan for the Control of Residues and Contaminants in products of plant origin, which consolidated past programmes in the area (G/SPS/N/BRA/514). The results would be published annually in Brazil's official gazette. The plan's main objectives were to improve the safety and quality of plants, their products and by-products sold on both local and international markets; to verify the recommended safe use of pesticides in accordance with good agricultural practices and related legislation; to ensure the adoption of good practices in agricultural manufacturing, storage and transport of plants, products and by-products; to improve risk exposure assessment of residues harmful to consumer health; and to prevent the consumption and trade of non-compliant plant products. Brazil expected improvements in these areas to improve market access for its plants and plant products.

7. The representative of Brazil also provided information on the adoption of a regulation on research related to sanitary and phytosanitary measures. The objective was to increase and update research actions related to agricultural control specifically in the areas of animal and plant health and quality and safety of plant and animal products. This research aimed at improving scientific knowledge, technology and management of control systems. The Secretariat of Animal and Plant Health and Inspection of the Ministry of Agriculture and the Ministry of Science and Technology provided around US\$55 million for four development programmes: development of a research framework, specific research projects, human resource capacity development and development of centres for agricultural protection. Many of the approved projects were related to capacity building and scientific and technological cooperation with Brazilian universities and research bodies. These research activities were expected to improve SPS control systems in Brazil.

III. SPECIFIC TRADE CONCERNS

(a) New Issues

(i) China's Hygienic Standard for Distilled Spirits and Integrated Alcoholic Beverages (G/SPS/N/CHN/111) – Concerns of Mexico

8. The representative of Mexico indicated that China's notified regulation classified alcoholic beverages in three categories: distilled cereal spirits, distilled fruit spirits and other distilled spirits, establishing maximum levels of methanol of 0.6, 8.0 and 0.6 grams per litre, respectively. Since tequila was made from agave, it was to be classified in the "other distilled spirits" category. As such it would not have access to the Chinese market, since according to the relevant Mexican standard, tequila contained up to 3 grams of alcohol per litre. In 2001, in the context of China's WTO accession, Mexico and China had signed a Memorandum of Understanding through which China had recognized that tequila was a product originating in Mexico, produced according to Mexican standards and regulations. Mexico requested that China modify its draft measure, taking into account the special raw material from which tequila was made, and giving tequila the same treatment as distilled fruit spirits. Mexico's tequila producers had sent comments to this effect to China's Enquiry Point, and the Mexican Government would shortly be submitting comments as well. Mexico thanked China for a bilateral meeting on this subject and looked forward to finding a mutually acceptable solution.

9. The representative of China encouraged Mexico to submit comments to China's Enquiry Point. Comments received during the comment period would be taken into account. China was allowed to take measures necessary to protect health.

(b) Issues previously raised

10. The Secretariat introduced Revision 9 of document G/SPS/GEN/204, highlighting that 277 specific trade concerns had been raised since 1995. Of these, 76 had been reported as resolved and 19 as partially resolved, while no resolution had been reported for the remaining 182. In 2008, a total of 29 specific trade concerns had been brought to the attention of the Committee, of which 16 had been new concerns. All information on specific trade concerns could also be searched in the SPS Information Management System (SPS IMS).

(i) *General Import Restrictions due to BSE (STC 193) – Concerns of the European Communities*

11. The representative of the European Communities drew attention to the OIE standard for BSE, which did not recommend trade restrictions on de-boned beef from animals aged less than 30 months. The European Communities met this standard, but its exports were still facing trade restrictions. National restrictions maintained despite the OIE Code undermined this standard that had been adopted after long negotiations, thus damaging the credibility of the OIE. The OIE was planning to update the Code, because there was compelling evidence that the age requirement was not necessary, but the European Communities questioned whether this was worthwhile if Members did not apply the standard in any case. Trade in beef was important, and BSE issues were among the concerns most frequently raised in the SPS Committee. The European Communities appealed to Members to make greater efforts to base their measures on the relevant OIE standards. Jordan was now accepting the OIE Code, as did the European Communities, and others should follow this example.

12. The representative of the OIE explained that the BSE standards had been democratically adopted by OIE members, and were in fact very conservative. The OIE was considering removing the age requirement, and relaxing the restrictions on gelatine. There was still a wide margin of safety built into the standards, and it was worrying that there was a lack of willingness on the part of Members to apply them.

(ii) *Korea's Livestock Epidemic Prevention Act (LEPA) (STC 274) – Concerns of Canada*

13. The representative of Canada again expressed concerns regarding recent amendments to Korea's Livestock Epidemic Prevention Act, including its consistency with the SPS Agreement and with the OIE Code. However, this represented only one of a series of barriers Canada was facing in its efforts to resume trade in beef with Korea. While matters had appeared to progress following the October 2008 meeting of the SPS Committee, there had been no significant progress after an on-site visit by Korean officials in November 2008. Since May 2007 the OIE recognized Canada as a controlled-risk country for BSE, which according to the OIE Code allowed for safe trade in all beef and cattle under conditions which Canada can meet. Canada regretted that the issue could not be resolved at a technical level on a strictly scientific basis and was considering all options, including recourse to formal WTO dispute settlement procedures. Canada remained hopeful that this would not be necessary, but could not allow the issue to continue unresolved; five years was long enough.

14. The representative of Korea indicated that LEPA was consistent with the SPS Agreement. The Act required a risk analysis for beef imports in all cases. The risk analysis for Canada was underway; Canada's BSE measures were under review. More detailed consultations were required after the on-site inspection of November 2008, including information on Canada's fifteenth BSE case.

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

15. The representative of China reiterated concerns about the US Agricultural Appropriations Bill for fiscal year 2008, which had seriously affected China's exports of cooked poultry products. Although all technical problems had been resolved after numerous bilateral consultations, the United States still maintained an import ban because the Bill's section 733 indicated that no funds made available in the Bill be used to establish or implement a rule allowing poultry products to be imported to the United States from China. China was seriously concerned about this discriminatory legislation, which was in obvious violation of US international obligations. China hoped to resolve this problem in a science-based and pragmatic manner and asked the United States for an update.

16. The representative of the United States indicated that the US authorities placed great importance on ensuring that measures were based on science. China's concerns would be brought to the attention of the appropriate authorities in Washington with the aim of resolving the issue as soon as possible.

(iv) *India's Restrictions Due to Avian Influenza (STC 185) – Concerns of the United States*

17. The representative of the United States expressed disappointment that India continued to maintain its emergency measures prohibiting a wide range of products because of avian influenza without scientific evidence or a risk assessment. Appropriate measures for avian influenza did not include trade restrictions on swine or swine products, trade measures related to notifiable avian influenza in wild birds, or prohibitions on heat-treated products. In addition, Members should distinguish between highly pathogenic and low pathogenic avian influenza. The US representative reminded the Committee that India had proposed a meeting at a technical level to discuss the issue at the October 2008 Committee meeting and that the United States welcomed their suggestion. However, the United States on a numerous occasions had asked for a copy of India's scientific justification as a basis for such technical discussions, but had not received the documents to date. The United States again urged India to present its risk assessment so that a technical discussion could be scheduled.

18. The representative of the European Communities welcomed the recent lifting by India of some avian influenza-related restrictions, but supported the US concerns that the remaining restrictions were unjustified and went against the OIE Code, in particular the lack of distinction between outbreaks of highly pathogenic and low pathogenic avian influenza.

19. The representative of India explained that since many countries reported avian influenza, and because of the human health implications, it was natural that Members were extremely cautious to safeguard animal and human health. This was particularly true in India, since its poultry industry was largely family-run. Many Members had adopted avian influenza measures, including import bans. India had banned imports of poultry and swine products from countries reporting both low and highly pathogenic avian influenza, since one strain of the virus could mutate into the other. An FAO publication acknowledged that mutation to virulence had been demonstrated, and the USDA website also admitted this. At the OIE General Session, India had voted against the resolution stating that low pathogenic avian influenza was not a trade concern. India believed that trade interests should not take precedence over human health concerns, but accepted that science was evolving and had provisions for reviewing its avian influenza measures. As a result, trade restrictions on certain products from avian influenza-positive countries had been lifted. India had recently reviewed the restrictions on pig meat and found there was minimal risk, especially when processed. India had thus decided to lift restrictions on pig products and on processed poultry products. The reviews would continue. The representative of India had taken note of the US concerns, had had bilateral meetings with the United States and the European Communities, and would convey their concerns to his authorities.

20. The representative of the OIE indicated that avian influenza was a major challenge for trade in poultry products. The relevant standards were in place and the OIE did not receive many comments from OIE members; the standard seemed to be well accepted. Currently the OIE was looking at conditions for trade in pet food and various by-products such as feather meal. Members should review the avian influenza standards and raise any concerns at the OIE. The representative of the OIE clarified that there were a number of publications on avian influenza, some by the OIE, some by FAO, some joint. For international trade, the relevant standard was that in the OIE Terrestrial Animal Health Code.

(v) *Mexico's Restrictions on Imports of Swine Meat (STC 271) – Concerns of Brazil*

21. The representative of Brazil recalled that the state of Santa Catarina had been recognized as FMD free in 2007. In 2008, Brazil had requested the establishment of a working plan for recognition of this disease-free area, taking into account the Committee's Decision on Article 6 (G/SPS/48). Brazil had made important investments to achieve freedom from FMD without vaccination. Mexican authorities had promised a response, but none had been received, and no progress had been made. Brazil had proposed a new approach: Brazil had invited Mexico to use the good offices mechanism of Article 12.2 of the SPS Agreement and paragraph 6 of the Committee's working procedures, with the presence of a specialist from the OIE. Brazil was waiting for Mexico's response to this proposal and looked forward to the friendly and timely resolution of this issue based on OIE standards.

22. The representative of Mexico indicated that for pig meat, the information Brazil had provided to the Mexican authorities was being studied. Mexico had asked for information on Brazil's toxic residue control plan, which had been received in August 2008. In October 2008, Mexico had requested additional information about this toxic residue control plan, and again in February 2009, without receiving a response. Mexico's consideration of this issue would be able to continue when the information was received. The suggestion to use the Good Offices mechanism had only recently been received and forwarded to the capital.

23. The representative of Brazil indicated that in his view, Mexico's request for information was related to a different trade concern regarding heat-treated meat (see below). Brazil's residue plan was available on a website. All information on FMD freedom was available to Mexico, and in addition, the OIE had studied the information and there had been several bilateral meetings. There was no missing information at this stage, but if necessary, the information would be provided again.

(vi) *Mexico's Import Restrictions on Cooked and Frozen Meat (STC 263) – Concerns of Brazil*

24. The representative of Brazil recalled that Mexico was also restricting access of cooked and frozen meat from FMD-free areas. Brazil considered that Mexico's restrictions were not based on scientific evidence since OIE standards were clear that heat treatment could be used to inactivate the FMD virus. Bilateral meetings at technical and even ministerial level had been held, but with no reaction from Mexican authorities. Brazil and Mexico had signed a memorandum of understanding in 2007 which established a technical group to discuss SPS matters. Despite Brazilian proposals to arrange a first group meeting, including requests at ministerial level, the meeting had not taken place. Brazil was disappointed at the lack of response, but hoped for friendly and expeditious consultations on the matter.

25. The representative of Mexico indicated that there had been some progress at a meeting on 19 September 2008. He reiterated that Mexico had received information on the toxic residue control plan, but on two occasions Mexico had asked for additional information, and this additional information had not been provided. Once this information was received and had been analyzed, the next step would be the analysis of the establishments interested in exporting to Mexico.

26. The representative of Brazil requested a bilateral meeting on the margins of the current meeting to clarify what information had been sent and what might be missing.

(vii) US Import Restrictions on EC Dairy Products (STC 268) – Concerns of the European Communities

27. The representative of the European Communities indicated that there had been some progress with the US-EC equivalence exercise on dairy products, but that there were still obstacles, in particular in relation to the US definition of Grade A dairy products. The definition was on a case-by-case basis, but apparently there were discussions about a more precise definition. The European Communities was concerned that if this definition were too tightly drawn, it could exclude certain products. The European Communities hoped for an explanation.

28. The representative of the United States explained that the United States was unaware of any pending legislation in Congress affecting the definition of Grade A dairy products. The US National Conference of Interstate Milk Shippers was holding its biennial meeting in April. Two proposals had been submitted for consideration at the meeting which sought to define "milk products" for purposes of the Pasteurized Milk Ordinance. Neither of those proposals would expand the scope of products currently included in the Grade A programme. The representative also explained that the US Food and Drug Administration (FDA) had sent a letter to DG SANCO and was willing to resume discussions about Grade A dairy product equivalence. FDA anticipated moving forward with the bilateral efforts in this area soon.

(viii) US Restrictions on Apples (STC 269) – Concerns of China

29. The representative of China indicated that although there had been technical discussions on this subject, there had been no progress. China remained concerned about undue delays in the pest risk assessment process. China was free of fire blight and fruit flies in the apple-growing regions. In addition, fruit bagging was used, so there was no quarantine risk. Chinese apples had similar production areas, diseases, pest occurrences and regulations as pears in China. The United States had allowed importation of pears based on a risk assessment, so there should be no quarantine problem for apples. China indicated that according to Article 5.7 a risk assessment should be carried out within a reasonable period of time and asked the United States to complete its assessment as soon as possible.

30. The representative of the United States indicated a willingness to continue working with China to address the scientific issues related to the market access request for Chinese apples. The United States had identified an extensive list of quarantine pests associated with apples from China, which made the risk assessment a challenging task. In addition, the United States was reviewing the information provided on the pests of concern to determine whether it provided a clear and complete scientific understanding of the pest situation, and was awaiting additional information from China. For example, China would have to provide scientific evidence to support its claims that some pests did not occur in the apple producing areas. The United States would review this information, once received, along with all other submissions, and continue to work with China to address the scientific issues associated with the risk assessment.

(ix) Greece's Inspection and Testing Procedures for Imported Cereals (STC 206) – Concerns of Canada

31. The representative of Canada recalled that this concern was mainly related to the excessive inspection and testing requirements for GMOs in imported cereals. Not only were these requirements onerous, but consignments could be held for up to seven working days, which unnecessarily imposed additional costs and delays. This was done despite repeated assurances from Canada that GM wheat was not approved for commercial production in Canada or, to the best of Canada's knowledge,

anywhere in the world. This measure was clearly discouraging imports of cereals from non-EC countries and was having an adverse effect on trade. Canada considered these measures to be contrary to Greece's obligations under the SPS Agreement. Greece had not given any indication of its willingness to make further progress in resolving this issue although Canada had raised the issue bilaterally several times with Greece and with the European Communities. In September 2008, Canada's Ambassador to Greece had requested a meeting with the former Greek Minister of Rural Development and Food, but had received no response. An early meeting with the new Minister of Rural Development and Food has been requested with the hope of resolving this longstanding issue, given that this remains a serious concern for the Government of Canada.

32. The representative of the European Communities recalled that this issue fell under the competence of the European Communities. The European Communities understood Canada's impatience and frustration. Each EC member State implemented the harmonized system, but sometimes there were differences in the implementation. The European Communities had intervened on a number of occasions to avoid trade disruptions, but even the threat of disruptions could in and of itself be disruptive. The European Communities had highlighted to the Greek authorities that a number of matters had to be resolved, and would try to find a satisfactory solution.

(x) *Japan's Pesticide Maximum Residue Level (MRL) Enforcement System (STC 267) – Concerns of the United States*

33. The representative of the United States indicated that Japan's MRL enforcement policy imposed on US specialty products continued to be of great concern. This policy imposed industry wide testing for pesticides after one MRL violation by a single party. If a second violation involving the same pesticide and commodity occurred within one year, a 100 per cent test-and-hold policy of all exports from that country was enforced.

34. The representative of Japan indicated that the MRLs had been developed based on scientific assessments, taking into account Codex standards, and that they were applied both to domestic and imported products. When there were instances of non-compliance, inspections were strengthened, taking into account various factors, on a case-by-case basis. Japan had confirmed that the US regulation on pesticide residues was equivalent to Japan's. Where US MRLs were equal to or stricter than Japan's, the enhanced inspections were limited to the specific exporter. In cases where the US MRL was higher than Japan's, Japan needed to ensure that US exporters as a whole complied with Japan's MRL. Such evidence should be provided by the US Government itself, or in some other way. In fact, Japan's inspection records showed that multiple violations had been detected by the enhanced inspections after an initial violation. This suggested that responsibility of the exporter alone did not always ensure compliance with Japan's MRLs. Japan needed a mechanism to ensure that exporters complied with Japan's MRLs, e.g. a compliance programme established by industry or information on their compliance history. If the United States provided such information, it would enable Japan to consider limiting the enhanced inspection to the specific exporter. Japan hoped to continue technical discussions with the United States.

35. The Chairman reminded the Committee that he was available to provide Good Offices, if so desired.

(c) *Consideration of Specific Notifications Received*

36. No Member raised any issues under this agenda item.

- (d) Information on Resolution of Issues in G/SPS/GEN/204/Rev.9
- (i) *Panama's Inspection Regime for Food Processing Establishments (STC 214) – Concerns of the United States*

37. The representative of the United States thanked Panama for the resolution of this concern. The United States and Panama had worked together regularly to address their respective concerns. As a result, Panama no longer requires inspection of individual establishments, but allows the US Food Safety and Inspection Service to certify them for export.

IV. OPERATION OF TRANSPARENCY PROVISIONS

38. The Chairman noted that the most recent list of National Notification Authorities was contained in G/SPS/NNA/14 and the most recent list of National Enquiry points in G/SPS/ENQ/24. These lists were now updated only once every year, but the most recent information could be accessed through the SPS Information Management System. Members should provide updated contact information to the Secretariat so that it could be reflected in the IMS.

39. The Chairman noted further that notifications received since the last meeting of the SPS Committee were summarized on a monthly basis, in G/SPS/GEN/888, G/SPS/GEN/892, G/SPS/GEN/895 and G/SPS/GEN/903. A list of all documents and notifications issued in 2008 had been circulated as G/SPS/GEN/897.

40. The Secretariat reported that Members had smoothly made the transition to using the new notification formats as of 1 December 2008. The Secretariat encouraged Members to make more use of the option to include hyperlinks to texts of draft regulations on the notification formats, or to submit these draft regulations to the Secretariat in PDF format so that they could be placed on a server and a hyperlink included. Also, few Members were providing information on informal translations of notified draft SPS regulations by submitting a supplement to a notification, although some Members were submitting supplements to a large number of TBT notifications.

41. The Secretariat also drew Members' attention to the ongoing negotiations on trade facilitation. Members were identifying areas for further work, and there was a lot of overlap with SPS issues. Members should ensure coordination at the national level with colleagues following trade facilitation.

42. The representative of Chile noted that on the emergency notification format Members seldom provided information on how long emergency measures would remain in force. Some regular measures might be notified as emergency measures. This was an area the Committee should discuss, possibly as one of the subjects to be taken up in the course of the Review.

43. The Secretariat provided an update on the mentoring mechanism. This mechanism, described in document G/SPS/W/217 had been launched in 2008, based on a proposal by New Zealand that had received strong support from the SPS Committee during the Workshop on Transparency held in October 2007. The objective of this mechanism was to assist developing country Members in implementing and benefiting from the transparency provisions of the SPS Agreement. It involved the development of an informal, ad hoc supportive relationship between individuals who had similar responsibilities as Enquiry Points or Notification Authorities. It did not imply any commitment to provide financial or other types of assistance, nor was it meant to replace other forms of technical assistance.

44. The Secretariat had been mandated to provide an annual update to the SPS Committee on the functioning of the mentoring mechanism, based on mentoring requests and offers received, and on responses to a questionnaire by Members participating in the procedure. In response to its first call

for interested Members in the first half of 2008, the Secretariat had received eleven mentoring requests and six mentoring offers. The requests typically included assistance in submitting notifications, managing and following-up on incoming notifications, and raising awareness at the national level. During the course of July and August 2008, the Secretariat had contacted all interested Members and had matched the eleven requesting Members with six mentors, taking into account the information provided in the mentoring application forms. A number of mentors had accepted to take on more than one mentoree as the Secretariat received more requests than offers. The Secretariat thanked those Members which had volunteered to share their experiences by acting as mentors.

45. In accordance with its reporting mandate, in early 2009 the Secretariat had circulated a questionnaire to those already participating in the mechanism to get their feedback on the functioning of their mentoring arrangements. The Secretariat had received seven replies. Some main points that emerged were the following:

- All respondents believed in the positive role that mentoring could play, although the actual success of the mechanism depended on the proactive participation of both sides in the exercise.
- The mentor-mentoree pairs had had differing experiences with respect to modes and intensity of communication. Some had met face-to-face in the margins of the SPS Committee or through on-site visits. Others had maintained regular communications through email. For some others, the process had not yet really started.
- Email was a good basis for communication, however, there seemed to have been technical problems for some pairs in receiving each others' messages.

46. In November 2008, the Secretariat had launched a second call for Members interested in the mentoring mechanism to register with the Secretariat, with a deadline of 30 January 2009. As of the meeting, the Secretariat had received six mentoring requests and one offer. In light of this gap in numbers, the Secretariat called on interested Members to come forward as mentors. Mentoring did not necessarily involve financial commitments but rather the development of a supportive relationship among officials with similar responsibilities. The Secretariat also informed those Members which had expressed an interest in receiving mentoring assistance that they would be informed of developments.

47. The representative of New Zealand noted that it was ironic that for New Zealand, which had first suggested this mechanism, the process was not yet underway. New Zealand had tried several times to contact the three countries with whom it had been paired, but emails did not seem to be getting through. He highlighted the importance of maintaining up to date contact information for Enquiry Points and National Notification Authorities.

48. The Secretariat also provided information on the Procedural Step-by-Step Manual for SPS National Notification Authorities and SPS National Enquiry Points, reminding Members that New Zealand had taken the initiative to prepare it. Sally Jennings from the Enquiry Point of New Zealand had now completed this practical Manual, with the assistance of officials from Australia and the WTO Secretariat. The English version of this document was available for Members.

49. The procedural manual contained practical information regarding the operation of Enquiry Points and Notification Authorities. For example, on resources required; how to prepare a notification; how to manage incoming notifications; how to alert stakeholders; and how to draft some standard letters. The Secretariat hoped that this Manual would be a useful tool in addressing some of the commonly-posed questions about operating an effective Enquiry Point. A PDF version of the same document could also be downloaded from the SPS gateway of the WTO website (under the "transparency toolkit" section). The French and Spanish versions of the Manual should be available for the next meeting of the Committee in June. The Secretariat thanked the New Zealand authorities

for their valuable contributions towards capacity building in the implementation of the SPS Agreement.

50. The representative of New Zealand was pleased that New Zealand had taken part in preparing the Manual and hoped that it would be useful. New Zealand was looking forward to improved communication in the SPS area among Members.

V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

(a) Chairman's Report on Informal Meeting

51. The Chairman reported that during the informal meeting of the SPS Committee on special and differential treatment on 24 February, the main focus had been on the proposed revision of the procedure to enhance transparency of special and differential treatment in favour of developing country Members contained in G/SPS/33. The SPS Committee had adopted the procedure contained in G/SPS/33 in October 2004, and had agreed to review the implementation of this procedure after one year of its adoption. In February 2006, the Committee had agreed to extend the procedure without modification, but to review it again in 2008. However, the Committee had not reached a consensus on the review of G/SPS/33 in 2008 and this review continued.

52. In this regard, the informal meeting had considered the proposed revisions to the procedure, reflected and incorporated in G/SPS/W/224/Rev.2. During the informal meeting, the representative of Egypt had suggested several changes to the second revision document, with a view to making the procedure more operational and effective for developing and developed country Members. Egypt had suggested that G/SPS/33 should include general provisions for consideration by the SPS Committee regarding the need to assist developing country Members enhance their capacity to screen incoming notifications and to be able to react to them. The representative of Egypt had also made specific suggestions in the document, in order to reflect the language and recommendations adopted in previous Ministerial and SPS Committee decisions. Finally, the representative of Egypt had proposed the elimination of the counter-notification format, as not necessary nor helpful for developing country Members receiving special and differential treatment.

53. Some Members had agreed with Egypt that the counter-notification format in Annex 2 of the second revision document was not necessary. Members had also requested to see Egypt's suggestions in writing to permit a better analysis. The Secretariat had prepared a text which included the changes suggested by Egypt, for consideration by the Committee.

54. The Members continued discussions of possible changes to the Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members (G/SPS/33), as contained in G/SPS/W/224 and revisions. The representatives of Egypt, Cuba, Costa Rica, Japan, and the United States had suggested some further modifications, to be reflected in the next revision of the working document. Several Members had also indicated that they needed time to consider the latest proposed changes, and asked to revert to this at the next Committee meeting in June.

55. No other matters related to special and differential treatment had been raised at the informal meeting.

(b) Review of the Operation of S&D Transparency Procedure (G/SPS/W/224/Rev.2)

56. The representative of Japan proposed specific changes to G/SPS/W/224/Rev.2 in order to reflect the language of the SPS Agreement and the Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17).

57. The Secretariat clarified that the various proposed changes would be reflected in the next revision document to be circulated as document G/SPS/W/224/Rev.3.

58. The Committee agreed to revert to this proposal at the next Committee meeting in June.

VI. EQUIVALENCE – ARTICLE 4

(a) Information from Members on their Experiences

(i) *Brazil – Memorandum of Understanding between Brazil and Norway on Technical, Hygienic and Sanitary Requirements for the Recognition of Equivalence of Inspection and Quality Control Related to Fish and Aquaculture Products*

59. The representative of Brazil reported that this MOU had been signed in October 2003, taking into account the SPS and TBT Agreement as well as Codex standards. Trade and technical communication with Norway had been facilitated.

60. The representative of Norway expressed satisfaction with the entry into force of this MOU, which was Norway's first agreement with a South American country. Norway was looking forward to continuing good relations between the two countries.

(b) Information from Relevant Observer Organizations

61. No observer organization provided information under this agenda item.

VII. PEST- AND DISEASE-FREE AREAS – ARTICLE 6

(a) Information from Members on their Pest or Disease Status

(i) *Freedom from Equine Influenza in Australia*

62. The representative of Australia reported that since December 2008, Australia was officially free from equine influenza. Australia's statement of freedom was based on the control programme and comprehensive surveillance which met OIE requirements. A surveillance programme had been in place for twelve months after the last recorded case of equine influenza on 25 December 2007. All remaining equine influenza control measures had been removed within Australia. Australia considered this to be a significant animal health achievement, as Australia is one of only a small number of countries that has eradicated this disease. The significance of this achievement was recognised by the President of the OIE at the May 2008 General Session of the OIE. The successful eradication of equine influenza illustrated the importance Australia placed on its quarantine system and the effectiveness of its well-developed disease control capability and regulatory processes.

(ii) *Eradication of Citrus Canker in Australia*

63. The representative of Australia reported that since January 2009, Australia was officially free of citrus canker, following a successful four and a half year eradication programme. In accordance with ISPM No. 4, *Requirements for the establishment of Pest-Free Areas*, Australia had, via implementation of a national Response Plan, destroyed all high-risk host plants within the pest quarantine area, destroyed low risk native citrus within buffer zones around commercial orchards and surveyed remnant native citrus outside buffer zones, replanted commercial citrus orchards in the pest quarantine area with inspected planting material, and undertaken surveillance at 90-day intervals within the pest quarantine area. In addition, extensive surveillance undertaken throughout Australia since 2004 did not detect citrus canker. The success of the programme was due to excellent

cooperation between the jurisdictions and coordination by the Australian Government. Citrus canker had rarely been successfully eradicated before on such a scale. The successful eradication of citrus canker illustrated the importance to Australia of its quarantine in supporting its favourable pest and disease status and provided another excellent example of the effectiveness of Australia's pest control capability and regulatory processes.

(iii) Areas free of Black Sigatoka in Brazil

64. The representative of Brazil reported that two more areas had been recognized as free of black sigatoka since the last Committee meeting. Brazil now had more than 1,005,000 square kilometres throughout twelve states free from this disease. The aim was to extend these pest-free areas following IPPC recommendations.

(iv) Pest-free Areas for Mango Pulp and Seed Weevils in the Philippines

65. The representative of the Philippines provided information on a USDA-Philippines Bureau of Plant Industry Mango Programme. A survey had been carried out on the main islands of Luzon, Visayas and Mindanao and was scheduled to be completed in August 2009. So far, not a single mango pulp or seed weevil had been found. Furthermore, an AusAID Public Sector Linkages Program (PSLP) had funded a detection survey for mango seed and pulp weevils that had not found any evidence of presence of the weevils in Davao del Sur. Davao del Sur was placed under quarantine after the survey, and the Philippines now expected official recognition of this area from trading partners including Australia. A final detection survey had also been carried out in Sarangani Province and Samal Island, funded by AusAID. It had found no evidence of the weevils in the area, which had been placed under quarantine; a low monitoring survey continued. An official declaration of this mango pulp and seed weevil free area would be issued by the Philippines within the year. More information is contained in document G/SPS/GEN/906.

(v) Freedom from Classical Swine Fever in Mexico

66. The representative of Mexico indicated that on 30 January 2009, Mexico had declared its entire territory to be free from classical swine fever (CSF). The efforts dated back to 1973, with control and eradication measures in the north-western states, subsequently extending to the entire territory with the launching of the National Campaign Against Hog Cholera. Mexico was planning to submit the relevant information to the OIE shortly in support of its self-declaration. In view of its status, Mexico asked all of its trading partners to remove any current CSF-related restrictions on imports of swine, swine genetic material, and swine meat and meat products. More information is contained in document G/SPS/GEN/908.

(vi) Newcastle Disease in Belize

67. The representative of Belize provided information on an outbreak of virulent Newcastle Disease in commercial poultry in the Cayo District that had been reported to the OIE in November 2008. Depopulation and decontamination measures, along with movement controls, had succeeded in controlling the disease in the commercial poultry sector, however, it had spread to backyard poultry in the Cayo, Belize, Stann Creek and Toledo Districts. The disease had not been reported in the northern districts of Corozal and Orange Walk. Given the large number of infected communities in the affected districts, the disease was considered endemic. Although the disease had zoonotic potential, only rare cases of mild conjunctivitis had occurred in people directly involved with a large number of infected poultry. The source of the virus had not been determined, but it was believed that extensive floods in the Cayo and Belize Districts might be a causal factor. The Ministry of Agriculture, along with the Belize Agricultural Health Authority, was conducting a countrywide vaccination campaign in backyard poultry. The plan was to control the disease through repeat vaccinations every three months

to obtain disease-free recognition with vaccination. Belize had received valuable support from USDA, OIRSA, IICA and the Canadian Food and Inspection Agency.

(b) Information from Members on their Experiences

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

(c) Information from Relevant Observer Organizations

69. The representative of the OIE recalled the OIE's official processes for recognition of disease-free areas on foot and mouth disease (FMD), rinderpest, contagious bovine pleuropneumonia and bovine spongiform encephalopathy (BSE). The decisions for recognition of disease-free areas were democratically adopted by all the OIE members and annually reviewed. The OIE had also developed guidelines for Members to self-declare their free status on other animal diseases. The OIE stressed that its members have the obligation to report to the OIE secretariat any outbreaks of animal diseases in their territories. The OIE continued to work on the development of guidelines on disease-free compartments, and in May it would consider procedures to recognize compartments free of FMD. These guidelines were likely to have a positive impact on international trade. In addition, the OIE was conducting technical work on compartment freedom for avian influenza, in close cooperation with Brazil and Thailand.

VIII. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from the Secretariat

(i) *WTO SPS Activities*

70. The Secretariat introduced the document entitled "SPS Technical Assistance and Training Activities" (G/SPS/GEN/521/Rev.4). This document reported on all the SPS-specific technical assistance activities undertaken by the WTO Secretariat from 1 September 1994 to 31 December 2008. The WTO Secretariat had participated and organized a total of 177 activities during the period covered by the report. In 2008, the WTO Secretariat delivered 12 national seminars, two regional workshops, participated in four activities organized by other organizations, and organized one specialized course on SPS.

71. The report also included a broad array of information, including the regions covered by the SPS technical assistance activities, the language used, and the participation of the international standards-setting organizations.

72. The Secretariat further reported on the technical assistance activities delivered since the last SPS Committee meeting, which included a regional SPS workshop for Middle East countries, held in Qatar; a regional workshop for Pacific countries, held in Fiji; and national seminars in Mozambique, Mongolia, India, China, and Fiji.

73. The Secretariat announced that the WTO would organize the 5th Specialized Course on SPS from 12 to 31 October 2009, in Geneva. This specialized course comprises in-depth lectures on SPS issues, and "hands-on" activities. This year the specialized course would be delivered in Spanish.

74. The Secretariat recalled that the WTO regularly offer e-training courses on the SPS Agreement in English, French and Spanish. Invitations to the e-training courses were sent to Members' missions to the WTO.

(ii) *Standards and Trade Development Facility (STDF) (G/SPS/GEN/902)*

75. The STDF secretariat introduced document G/SPS/GEN/902 regarding STDF activities, as well as document G/SPS/GEN/899 containing the final STDF evaluation report issued in November 2008. The evaluator had judged the overall performance of the STDF to be good, and in many important areas very good. Furthermore, the performance of the secretariat was highly rated by virtually all stakeholders and by the evaluator. The recommendations of the evaluation had been discussed by the STDF Policy Committee in December 2008 and incorporated in the STDF Operational Rules and Operating Plan for 2009.

76. Attention was drawn to the workshop on Good Practice in SPS-Related Technical Cooperation held in October 2008. Document G/SPS/R/52 contained the summary report of the workshop and the STDF secretariat had also prepared a two-page briefing note on the conclusions of the good practice workshop for general distribution. Attention was also drawn to the latest edition of the STDF Newsletter and the development of a short film on the importance of SPS capacity building for international trade and economic development. The intention was to show the film at the next Committee meeting in June.

77. In November 2008, the STDF presented a desk study on SPS needs and the assistance provided to eight least developed countries (LDCs) at the LDC Ministerial Conference on Aid for Trade in Cambodia. The study identified areas where future SPS technical cooperation activities with a positive trade effect might be focused (G/SPS/GEN/900). Similar SPS briefings were envisaged for other countries.

78. The STDF also prepared a background paper for the "Open-Ended Working Group for the Development of an IPPC Capacity Building Strategy" held in Rome in December 2008 (G/SPS/GEN/898). The objective of the report was to identify current flows of phytosanitary technical cooperation, examine how phytosanitary needs were evaluated and discuss how these could be mainstreamed into national development plans.

79. Two global events were planned for 2009, one on cost-benefit analysis, and the other on climate change.

80. The workshop on cost-benefit analysis was planned for June 2009. The date was subsequently changed to 30 October 2009. The objective was to show how greater use of economic analysis could help to increase awareness about the potential benefits of investing in SPS capacity as a means to prevent SPS-related problems, and the likely returns on different types of investments. Findings of selected studies would be presented at the workshop, including recent studies by the OIE and OECD. These studies analyze the economics of different types of investments in the area of SPS, considering for instance: the costs of outbreaks of animal diseases compared with the costs of control; the expected benefits and costs of alternative control strategies; and the most appropriate response in the case of an outbreak. The workshop will also address the work done for an STDF project which considered the expected rate of return on investments in SPS capacity building, primarily on the basis of export performance. Another objective of the workshop is to identify future challenges in expanding the use of economic analysis to inform SPS investment decisions.

81. STDF revised work programme for 2009 included possible research on development of impact indicators, as well as exploring the linkages between SPS and trade facilitation and possible development of a work programme in this area. The STDF secretariat also highlighted STDF's increasing involvement as a technical and strategic partner in the SPS-related initiatives of partners and donors.

82. The STDF secretariat solicited the identification of consultants qualified to carry out evaluations of STDF projects. All STDF documents are available on the STDF website: <http://www.standardsfacility.org>.

(b) Information from Members

(i) *China – Information on a National Seminar held in Hangzhou*

83. The representative of China reported on two national seminars on the SPS Agreement organized in collaboration with the WTO Secretariat. These seminars were held in Hangzhou and Beijing, and over 100 participants attended each seminar. The representative of China thanked the WTO for its participation, as well as experts from the United States and Canada.

(ii) *Brazil's Experience in Providing Technical Cooperation to the Food Quality Control Programme of Angola*

84. The representative of Brazil reported on an FAO project for strengthening Angola's Codex national committee and its food control system. Brazil's assistance involved the implementation of the project through: (i) assessment of Angola's food control organizations and its technical assistance needs; (ii) evaluation of Angola's Codex focal point and its interaction with the relevant national institutions; (iii) recommendations to improve the food control system in Angola and the development of an action plan; and (iv) preparation of a study addressing the areas where Angola needed further training.

(iii) *Indonesia – Information on the Technical Cooperation Provided by the IPPC*

85. The representative of Indonesia thanked IPPC and FAO for conducting a technical cooperation programme for strengthening Indonesia's quarantine agency and control system on alien species. The ultimate objective of this programme is to preserve Indonesia's biodiversity through the implementation of a strong strategy. Indonesia also thanked the STDF secretariat and the FAO for the seminars held in the country. Lastly, the representative reported on Indonesia's plan to organize an international symposium on the SPS Agreement, and requested assistance from the WTO, OIE, IPPC and Codex.

(iv) *Belize – Technical Assistance to Enhance National SPS Capacity*

86. The representative of Belize reported that the European Communities had responded positively to a request for technical assistance to enhance national SPS capacity, involving training on SPS and Technical Barriers to Trade (TBT) issues, the EC legal framework on SPS, biosafety matters, and the modernization and upgrading of laboratories.

87. The representative of the European Communities underlined the good lessons learned from Belize's well formulated and demand-driven request for technical assistance, whereby Belize identified their own needs and contacted potential donors. The EC representative also reported that additional resources were available for technical assistance, and suggested that other developing countries follow Belize encouraging example.

88. The Secretariat clarified that developing countries are entitled to request up to two national seminars per year on any of the topics covered by the WTO, while least-developed countries are entitled to request up to three national seminars per year. These requests must be submitted by the Member's mission to the WTO to the Director of the Institute for Training and Technical Cooperation (ITTC), Mr Hakim Ben Hammouda. The requests are then transmitted to the relevant Divisions within the WTO Secretariat to deliver the seminars. The Secretariat also reminded that countries

interested in technical assistance projects in the area of SPS might consider applying for a Project Preparation Grant (PPG) through the STDF. The PPGs are aimed at transforming good ideas on SPS technical assistance into projects, by helping Members articulate particular needs before approaching potential donors to support or implement the projects.

(c) Information from Observers

89. The representative of the IPPC reported that the Commission on Phytosanitary Measures (CPM) held an open-ended working group on the elaboration of a comprehensive strategy on phytosanitary capacity. Three outputs had resulted from the working group: (i) a concept paper on phytosanitary capacity; (ii) a draft comprehensive strategy; and (iii) an operational plan to implement the strategy. In addition, IPPC Members suggested that a mentoring process could be included into the strategy, as well as the elaboration of a paper considering the adoption of the Paris Principles on technical assistance for phytosanitary capacity building.

90. The representative of the IPPC also reported that the Phytosanitary Capacity Evaluation Tool had been updated and it was now being reviewed before final consideration by the CPM in the last week of March. In addition, IPPC had participated in workshops funded by Japan in Indonesia and Malaysia. Future workshops were planned for Bangladesh, Pakistan, and Thailand. IPPC was also planning a meeting for the Commonwealth of Independent States (CIS) to consider their regulatory systems and implementation of ISPMs. Furthermore, IPPC was participating in the Project for Participation of African Nations in Sanitary and Phytosanitary Standards-setting Organizations (PAN-SPSO), funded by the European Communities and coordinated by the African Union - Interafrican Bureau for Animal Resources (AU-IBAR). This project aims at fostering and strengthening the participation of African countries and the Regional Economic Communities (RECs) in the elaboration and review of international SPS standards. Lastly, IPPC reported on the organization of seven regional workshops on draft ISPMs.

91. The representative of Kenya thanked IPPC for its supervising role in an STDF project on the development of a centre of phytosanitary excellence in East Africa. This project also benefited from the participation of other partners, such as the Netherlands Plant Protection Service and the National Plant Protection Organization of Zambia.

92. The representative of the OIE introduced document G/SPS/GEN/905, which contains information on several capacity building activities carried out by the OIE. These include a number of workshops and events covering: the Laboratory Twining Programme to establish and support direct sustainable links between the OIE Reference Laboratories or Collaborating Centres and candidate establishments in developing countries or countries with economies in transition; the OIE Performance of Veterinary Services (PVS) evaluations; the GAP Analysis for identification of countries' priority needs on animal health issues; and activities for strengthening veterinary legislation.

93. The representative of the Codex reported that a compendium of all relevant technical assistance activities would be submitted to the Committee before the June meeting. Codex technical assistance activities comprised a trust fund to sponsor the participation of developing countries in Codex meetings, as well as workshops and courses to strengthen the capacity of developing country officials on food safety matters. Codex has launched a distance learning course on risk analysis, which is available on FAO's website and through a CD-Rom.

94. The representative of IICA noted that document G/SPS/GEN/904 had information on their technical assistance activities. These include the implementation of STDF project 108, to assist Latin American countries set a national agenda on SPS involving the public and private sectors, and possibly the establishment of a national SPS committee. IICA has also developed a programme for

assisting countries in the Americas region to improve dialogue with the private sector in order to better participate in the elaboration and review of international SPS standards, guidelines and recommendations. IICA thanked the Codex, OIE and the Comité de Sanidad Vegetal del Cono Sur (COSAVE) for their assistance in these projects, and the United States for funding the project. IICA would organize seminars on assessment of microbiological and chemical risks in food. In addition, IICA was elaborating manuals on good practices for countries participation in the committees of the WTO, OIE, Codex, and IPPC.

95. The representative of UNCTAD reported on SPS events conducted in the past year, including: one activity on organic agriculture aimed at achieving greater harmonization on standards, jointly organized with the FAO; and the First Regional Conference in Asia on organic agriculture, organized together with the ITC, and targeting a better harmonization and equivalence in Asia on organic agriculture. UNCTAD was participating in the Trade Standards Practitioners Network, an initiative led by the World Bank to improve analytical and technical capacity in the area of voluntarily sustainable standards.

IX. REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT

(a) Report of the Informal Meeting

96. The Chairman reported that at the informal meeting of the SPS Committee on the Review of the SPS Agreement, held on 24 February, two issues had been discussed: (i) proposals on enhancing the use of Good Offices and ad hoc consultations; and (ii) new issues identified for consideration during the Third Review of the Operation and Implementation of the SPS Agreement.

97. With respect to the proposals to enhance the use of Good Offices, the Chairman had observed that in the 2005 Review, Members were encouraged to make use of the possibility for ad hoc consultations, including through the Good Offices of the Chairperson of the SPS Committee, to facilitate the resolution of specific trade concerns.

98. The Chairman had recalled that the Committee had, for its consideration, two proposals to enhance the use of ad hoc consultations, one from Argentina (G/SPS/W/219) and one from the United States (G/SPS/W/227). The United States and Argentina had now submitted a joint proposal on Article 2.2 (G/SPS/W/233).

99. Many Members had welcomed the joint proposal and the fact that it focused on addressing the technical issues. Some Member had found useful that the proposed procedure would allow the involvement of Codex, IPPC or OIE as appropriate. More information had been requested regarding the possibility for third parties to join the consultations, and whether the Chair would be able to make recommendations. Members had also sought clarification on the stage at which the process would start, and on how much transparency would be available during or after the process.

100. Several Members had raised concerns with regards to avoiding any duplication or conflict with the horizontal mechanism under discussion in the Non Agricultural Market Access (NAMA) negotiations for the fast-track resolution of non-tariff barriers. India had considered the joint proposal as amounting to a carve-out for SPS issues and suggested that all NTBs had to be dealt with consistently. Switzerland and the European Communities had also expressed a preference for the across-the-board approach being developed in NAMA.

101. Argentina and the United States had noted that Article 12.2 provisions for ad hoc consultations and the horizontal process under NAMA could co exist. While it was not clear when and in what form the NAMA proposal might eventually be adopted, the joint proposal on ad hoc

consultations was in line with proposals in NAMA. The United States had noted that it had first proposed the development of a procedure within the SPS Committee in 1998, and this issue had been under consideration in the context of the Second Review of the SPS Agreement. As for third party participation, this could be envisaged, as well as recommendations by the Chair, as the joint proposal was meant to be flexible according to terms agreed by the parties involved.

102. Members were invited to submit their comments on the joint proposal by Argentina and the United States by mid- April. It had been agreed that on the basis of the discussions and of any subsequent comments by Members, a revision of the proposal would be circulated for consideration by the Committee at its June meeting. The Chairman had reminded Members that in any case, the Good Offices were always available and could certainly benefit from more use and experience.

103. In terms of the new issues identified for consideration during the Third Review, the Chairman recalled that at its October 2008 meeting, the Committee had adopted a procedure and timetable for undertaking the Third Review of the SPS Agreement. This was contained in document G/SPS/W/228.

104. Members were invited to identify issues for discussion as part of the Third Review and any other issues they wished to have considered during the Review, by 28 November 2008. Members were also invited to submit papers on the issues proposed for consideration and to identify any further issues for consideration during the Review, by 9 February 2009.

105. In accordance with the agreed timetable, the informal meeting had held an initial discussion on the issues identified. China had submitted an issue for consideration on Article 8 and Annex C (G/SPS/W/234). China had recalled the importance of Article 8 and Annex C, noting that many specific trade concerns related to control, inspection and approval. However, Annex C was seldom used to justify requirements, perhaps because some of its clauses were ambiguous.

106. Several Members had noted that Codex, OIE and IPPC played important roles in that area. For example, the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) had elaborated standards along with principles and guidelines. These Members had suggested that perhaps the proposal from China could be addressed by the three Sisters.

107. Codex had noted that it was active in developing guidance on the conduct of audits and inspection, and also that new work was being undertaken on guidance for national food control systems. The OIE had recalled that there were existing standards on certificates, inspections, etc., and that it was also looking generally at infrastructure needs. However the OIE did not give guidance on what was reasonable or necessary as this could vary from situation to situation and be specific to diseases. The IPPC had noted that it had two general standards on inspection procedures and on phytosanitary treatments, and had welcomed any specific suggestions to further its process on the issue. The Chairman had asked the three Sisters to provide information on their work in this area for the June meeting.

108. The informal meeting had also discussed a suggestion by Australia on how to address the review of the issue of consistency in a practical manner. Australia had noted that the December 2008 deadline for the review of the operation of the guidelines to further the practical implementation of Article 5.5 had expired, and that no Member had provided information on their experiences with regard to Article 5.5 since June 2005. In that context, Australia had suggested that Members be invited to submit any issue of concern they might have on the Article 5.5 Guidelines (G/SPS/15) by the June 2009 meeting of the Committee. Should no specific issue be raised by June, it was proposed that the Committee agree to consider the current guidelines on consistency as having been reviewed and maintain the guidelines as such.

109. The issue of the lack of information on the implementation of the other guidelines adopted by the Committee had also been flagged, and India had asked that the issue of the consideration of Article 10.2 - being currently discussed in the Committee on Trade and Development Special Session - be kept in mind during the Third Review of the Agreement.

110. During the formal meeting, the representative of India expressed support for China's proposal for further clarification on the control, inspection and approval procedures, as enshrined in Article 8 and Annex C of the SPS Agreement. India suggested that guidelines on those procedures would assist Members and avoid problems among trading partners.

(b) Issues Arising from the Second Review

(i) *Use of Ad Hoc Consultations (G/SPS/W/233)*

111. Following the discussions held during the informal meeting, the Chairman invited Members to analyze the joint proposal presented by Argentina and the United States (G/SPS/W/233) and submit written comments in advance of the next Committee meeting in June.

(ii) *Relationship between the SPS Committee and Codex, IPPC, and OIE – Proposed Agenda for the Workshop*

112. The Secretariat presented a proposed draft programme for the workshop on the relationship between the SPS Committee and the international standard-setting organizations (G/SPS/W/235), an outstanding issue from the last review of the SPS Agreement.

113. The proposed programme followed recommendations submitted by Japan (G/SPS/W/226) and New Zealand (G/SPS/W/206), and had been discussed with the OIE, Codex and IPPC. It includes two main parts: (i) presentations by the international standard-setting organizations on the procedures and issues they face in the development, adoption and monitoring of the use of international standards of relevance to the SPS Committee; and (ii) discussions on concrete actions to improve coordination between the Committee and OIE, Codex, and IPPC, to increase the use of international standards and avoid duplication of efforts.

114. The Secretariat requested Members to send their comments on the draft programme before 24 April, to permit circulation of the final programme before the June meeting of the Committee. The Secretariat further announced that there will be funds available from the Global Trust Fund to facilitate the participation of developing country officials.

115. The representative of Japan agreed with the draft programme proposed by the Secretariat and the expected outcomes from the workshop. Japan suggested the inclusion of presentations on how to enhance the coordination between the Committee and the OIE, Codex, and IPPC, in order to avoid duplication of work; presentations on the experience of coordination at the national level; and presentations on the existing coordination mechanisms among the international standard-setting organizations themselves, and with the Committee.

116. The representative of Chile suggested the inclusion of a presentation on how the three international standard-setting organizations could contribute to the monitoring of the implementation of international standards, in collaboration with the Committee, and in accordance with Articles 3.5 and 12.4 of the SPS Agreement.

(c) Third Review (G/SPS/GEN/887/Rev.1)

117. The Secretariat recalled that in the October 2008 meeting the Committee agreed on a procedure and timetable for undertaking the Third Review of the SPS Agreement (G/SPS/W/228). On 3 November 2008, the Secretariat circulated a background document for the review of the operation and implementation of the SPS Agreement (G/SPS/GEN/887).

118. The background document for the Third Review provided an overview of the Committee discussions and major developments in implementation and operation issues related to: consistency; equivalence; transparency; monitoring of the use of international standards; technical assistance; special and differential treatment; regionalization; specific trade concerns; private standards; use of ad hoc consultations; cooperation with the international standard-setting organizations and on dispute settlement. This document further included three appendices covering a summary of Committee activities; information about SPS-related dispute settlement activities; and a list of documents submitted by Members relevant to the various issues raised in the background document.

119. Following the receipt of written comments on the background document, the Secretariat circulated an updated background document (G/SPS/GEN/887/Rev. 1), on 6 February. In this regard, the Secretariat drew the Committee's attention to the deadline of 27 March for submission of comments, before it circulated the first draft report on the Third Review on 24 April.

120. The Chairman recalled the suggestion by Australia that Members be asked to submit any issue of concern they might have on Article 5.5 by the June 2009 meeting of the Committee, and if no specific issue were raised, the Committee should agree to consider the current guidelines on consistency as having been reviewed and maintain the guidelines as such. No Member objected to Australia's suggestion.

121. The Chairman also recalled the concerns of some Members on the lack of information about the implementation and use of other guidelines which had been adopted by the Committee. In this regard, the Chairman suggested that the Committee might want to assess how best to follow up on Members' experiences and issues of concern in the use of guidelines.

122. The representative of Chile stressed that very little information has been provided by Members regarding their recognition of equivalence and recognition of pest- and disease-free areas. Chile noted that it would be desirable to receive more information regarding the implementation of the Committee's decisions and guidelines and the importance of Members notifying these agreements using the appropriate mechanism established by the Committee.

123. The Secretariat recalled the usefulness of the SPS Information Management System (<http://spsims.wto.org/>) where all the information submitted to the Committee can be retrieved. The Secretariat noted that a questionnaire could be prepared for Members to provide information on their use of the Committee's decisions, guidelines and recommendations. The representative of Canada stated that given the excellent search facilities available, a questionnaire would not be necessary.

124. Lastly, the Chairman drew the Committee's attention to the agreed deadlines for the Review:

- **27 March:** deadline for Members submission, in writing, of any further papers on issues proposed for consideration;
- **24 April:** circulation by the Secretariat of the first draft report on the Third Review, based on GEN/887/Rev. 1 and discussions at the informal and formal meetings.

X. MONITORING ON THE USE OF INTERNATIONAL STANDARDS

(a) New Issues

(i) *Agreement Establishing the Asia Pacific Plant Protection Commission: Restrictions on Imports of Havea Plants from Outside the Region – Concern of Brazil*

125. The representative of Brazil raised concerns regarding some provisions of the Constitutive Agreement of the Asia Pacific Plant Protection Commission (APPPC), which includes a clause in its Article 4 and Appendix B on South American Leaf Blight (SALB). The provisions request APPPC contracting parties to prohibit by law the importation of havea plants from countries outside the region. Brazil considered that this measure which affected many countries in South and Central America, lacked scientific justification and was not based on risk analysis. In 1999, the 117th Council of FAO recommended that the APPPC revise its constitutive agreement in line with the IPPC and SPS Agreement principles and provisions. Brazil expected a timely revision of the APPPC constitutive agreement.

126. The representative of Japan supported Brazil's concern. Although Japan was located in the area covered by the Asia Pacific Plant Protection Convention, it was not a member of APPPC due to the provisions referred by Brazil against SALB. APPPC had conducted a risk assessment for a regional standard on SALB, and Japan hoped that APPPC would consider this risk assessment and adopt a regional standard at its September 2009 meeting.

127. The representative of IPPC clarified the relationship between IPPC and the regional plant protection organizations. Article 4 of the IPPC prescribes that regional plant protection organizations shall cooperate with the secretariat of IPPC in order to achieve the objectives of the Convention and to develop relevant standards. Article 10 of the Convention states that regional standards shall be consistent with the principles of the Convention. IPPC affirmed that they also were seeking revision of APPPC's constitutive agreement to be consistent with IPPC principles.

(b) Issues Previously Raised

(i) *Draft NAPPO Regional Standard: Guidelines for Regulating the Movement of Ships and Cargoes Aboard those Ships from Areas Infested with the Asian Gypsy Moth (RSPM N. 33) – Concerns of China*

128. The representative of China reported that after raising its concern at the Committee meeting in October 2008 on the draft regional standard developed by North America Plant Protection Organization (NAPPO) on Asian Gypsy Moth (AGM), it had maintained good communications with officials from NAPPO countries. The draft standard had been revised and was undergoing a second comment soliciting process. Technical expert groups from NAPPO had been sent to China, Japan and Korea for exchange of information, including on risk assessment. China welcomed the open and transparent working procedure of the NAPPO countries. China requested NAPPO countries not to adopt the standard until comments and concerns were taken into account. In addition, China recalled the provision in Article 2.2 of the SPS Agreement determining the need of scientific evidence for every SPS measure. China also reported that the occurrence of AGM has been significantly reduced in its territory, and joint surveillance with the United States in some Chinese ports showed that no AGM was detected. China further recalled the SPS Agreement provision for the least trade-restrictive measure to be applied. China acknowledged the legitimate objective pursued by NAPPO, but any SPS measure must comply with the relevant provisions of the SPS Agreement.

129. The representative of Japan supported the statement by China, and also appreciated NAPPO's transparent and open procedures. Japan underlined that the proposed standard could result in a huge

impact on the trade between Japan and NAPPO countries. Japan was undertaking consultations with its relevant stakeholders before submitting its comments to NAPPO, and requested the draft standard on AGM not to be adopted until its comments were duly considered.

130. The representative of Indonesia reported that it had similar concerns on the draft NAPPO standard on AGM, which was a pest listed in its regulation for quarantine measures. Indonesia supported the objectives of RSPM 33, but further studies were needed on the possibility of the insects to survive long distance journeys from Indonesia to North America by cargoes. Lastly, Indonesia stated that it followed the recommendations and treatments provided in ISPM 15 in all of its shipping from Indonesia to North American countries.

131. The representative of Korea shared the concerns raised by China and Japan, and expressed regret that the draft standard on AGM did not consider the low prevalence of this pest in Korea. Korea argued that the draft standard might pose an excessive restriction on trade, and did not consider other less-restrictive treatments available. Korea highlighted its concern on the need for scientific justification, which it had recently conveyed to NAPPO.

132. The representative of Canada underlined that the NAPPO measure on AGM aimed at controlling a real risk to North American forests, which had been affected by AGM in the past and resulted in a multi-million US dollar process for eradication. NAPPO members were aware of the trade impact and the costs associated with control measures, and it was in NAPPO members' interest to keep shipping costs low for both imports and exports. The draft regional standard had been developed to be no more trade restrictive than necessary to effectively address the risks associated with AGM. Regular meetings with trading partners had been held, including visits from NAPPO members' experts to China, Japan and Korea. The results from these consultations would be taken into account in the elaboration of the regional standard.

133. The representative of the United States affirmed that AGM was a highly invasive pest, not present in North America, and which had been found on a number of occasions in port areas in North America. The NAPPO Pest Risk Assessment Panel had conducted a risk assessment which concluded that NAPPO members should adopt specific phytosanitary measures to prevent the introduction of AGM in North America. This risk assessment was available upon request, and was the basis for the draft NAPPO standard for AGM. The draft standard had not been adopted by the NAPPO Executive Committee at its October 2008 annual meeting, due to the number of public comments which were still being reviewed. In February 2009, a NAPPO delegation had held a constructive meeting with Chinese regulatory officials to discuss the draft standard. Similar cooperative initiatives were being undertaken with Japan and Korea. The United States assured its trading partners that the applied phytosanitary measures would be consistent with the WTO rights and obligations.

134. The representative of Mexico corroborated the statements by the United States and Canada, and indicated that Mexico attached high importance to the topic. Mexico looked forward to continuing to work with concerned trading partners to mitigate any potential risk of introduction of AGM into North America.

135. The representative of Chile inquired whether phytosanitary standards developed by regional organizations were considered international standards or regional standards according to the SPS Agreement. The Secretariat clarified that the SPS Agreement makes clear reference to international standards for plant health as being the ones developed under the auspices of the secretariat of the IPPC in cooperation with regional organizations operating within the framework of the IPPC. Therefore, standards developed by regional organizations alone were not likely to be considered by the SPS Agreement as an international standard. If WTO Members applied or incorporated those regional standards into their domestic legislation however, then the SPS Agreement would apply.

XI. CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS

(a) Report on Chairman's Consultations

136. The Chairman recalled that following the October 2008 meeting of the Committee, he had circulated to all Members a questionnaire on Members' experiences with SPS-related private standards. That questionnaire was contained in G/SPS/W/232. Fourteen Members had submitted responses to the questionnaire, and he had held informal consultations with a number of Members regarding those responses and their experiences with the questionnaire. The consultations were also attended by the representatives of Codex and the OIE.

137. The Chairman reported that the ad hoc working group had held a very useful and concrete discussion on private standards. He also noted that the replies to the questionnaire constituted the first phase of a three-phase endeavor. The replies would assist the Secretariat and the ad hoc group to proceed with the second phase of preparing a descriptive report. The third phase would involve the preparation of an analytical report, which was expected to propose concrete action for consideration by the Committee.

138. The replies to the questionnaire from producers and companies were indicative that, for them, private standards were simply "the" market access condition with which they had to comply. For most of them, there was no understanding of a distinction between national and international versus private standards. Those producers and companies which managed to meet private standards were able to gain or maintain market share, although that did not necessarily provide a price premium. Still, for those supplying a number of markets or buyers, that meant complying with a multitude of standards and paying separately for their certification. Therefore, harmonization among existing private standards could indeed be a good starting point.

139. In addition, the Chairman noted that from the responses received, smaller producers were particularly affected by private standards due to their limited capacity to undertake the investment necessary to meet the detailed requirements and pay for the certification. Some which could meet national food safety requirements in their export markets found themselves unable to keep up with the "safety" requirements of private standards. In some instances, technical assistance could assist farmers to meet the requirements of private standards.

140. Looking more closely at specific examples from the replies, in the area of food safety, a common problem related to certain private standards which set maximum residue limits (MRLs) for pesticides which were significantly lower than national requirements, which were themselves at times more restrictive than MRLs set by Codex for the same products. While it was easier to identify deviations from Codex standards when these constituted numerical values, it was harder to make an assessment in the case of process-based international standards. Those contained rather general guidelines which were supposed to be given operational effect at the national level.

141. In the area of animal health, it had been noted that certain private standards imposed unjustified requirements which went beyond the guidelines of the OIE, as well as national requirements. One example was a requirement for certification of absence of listeria in raw meat while the national requirement in the relevant market was for absence of listeria in ready-to-eat or semi-processed meats only. Another example was a requirement for de-boning of beef from BSE-free countries, although this was not required under OIE guidelines. No private standards had been identified in the area of plant health.

142. There had been a lot of interest in the workings of ChileGAP, which was an initiative of the exporters' association in Chile to facilitate meeting GlobalGAP and other private requirements in their

export markets. Costs of certification was another concern which had come up repeatedly in the discussions.

143. It had been pointed out by one Member that private standards and their certification requirements served an important function in providing assurances to buyers and responded to consumer demands in the area of food quality as well as in other areas such as labor and environmental requirements. Governments needed to make sure that products coming into their market were "safe". Interfering in further initiatives of private entities could be inappropriate, except in instances of deceptive practices and distortions of competition. At the same time, some sensitization of entities involved with private standards was occurring, they were alerted to concerns related to lack of transparency and adverse effects on developing countries. Still, it was unrealistic for all producers to expect to be able to participate competitively in international trade.

144. An underlying preoccupation of a number of participants in the group had been the importance of preserving the principles and relevance of the SPS Agreement in international trade matters related to sanitary and phytosanitary issues, and in not undermining the value of international standards.

145. The Chairman stated that during the ad hoc group meeting, he had also reported on his intervention at the Global Food Safety Initiative's International Food Safety Conference held in Barcelona earlier in February. As the Chair of the SPS Committee, he had underlined the concerns raised by developing country Members in the WTO regarding private standards. The need for further harmonization among private standards and the high costs of certification were also among the main themes raised during that conference.

146. The Chairman indicated that in response to requests from delegations, the deadline for Members to respond to the questionnaire contained in G/SPS/W/232 had been extended to 24 April 2009. He encouraged all Members which had not yet done so to contribute to that useful exercise. Members which had already provided a response could also provide complementary information. If Members were submitting a second reply, the Chairman asked that they clarify whether their reply replaced their earlier one or was a supplement to it.

147. Based on the replies received, the Secretariat would circulate to all Members a descriptive report for consideration at the June meeting of the Committee. Based on the discussions during that meeting, the ad hoc working group would begin working on the analytical report, which would be circulated for consideration during the October Committee meeting.

148. The representative of Ecuador, speaking on behalf of GRULAC, thanked the Chair for his consultations, and the Secretariat for the work it was undertaking to help assess the effects of private standards on small developing countries' access to markets. Ecuador noted that many Members had flagged their serious concerns about the effects of private standards on their exports, and that during the ad hoc consultations, several concerns had been raised about the possibility of protectionist measures being implemented without justification. According to Article 2 of the SPS Agreement, Members had the right to take SPS measures, based on scientific principles. Ecuador stressed that, however, nothing in the Agreement provided for Members to impose SPS measures for commercial purposes, as private standards did. Ecuador also referred to Article 13 of the SPS Agreement and the need for Members to abide by the provisions detailed therein regarding entities other than central government bodies and their compliance with the relevant provisions of the SPS Agreement.

149. The representative of Ecuador noted that those imposing private standards did not recognize the role of international standard-setting bodies as the organizations most suited to establish SPS standards. Ecuador proposed that in addition to the initial steps undertaken so far by the Committee, a permanent monitoring mechanism of SPS-related private standards be put in place, in order to identify

if such measures constituted restrictions to trade disguised as replies to the on-going economic crisis. Ecuador, as other developing countries, urged developed countries to take into account the concerns of the many WTO Members who, as evidenced, saw additional costs linked to private standards, placing a heavy burden on their agricultural production and exports. Ecuador expressed the hope that the Committee would define ways to strengthen the SPS Agreement in the face of the threat posed by SPS-related private standards.

150. The representative of Brazil stated that Brazil attached great importance to the work of the ad hoc group on private standards. Brazil noted that private standards represented higher costs for trade, a divergence from international standards, and confusion for exporters. Furthermore, private standards did not only cover food safety issues, but also a range of other horizontal issues in international trade. Brazil looked forward to the results which would come out of the work of the ad hoc group and the analytical report which would represent an important contribution to the work of the Committee.

151. Belize stated its support for the ongoing work by the ad hoc group and the Chairman towards recommendations in the area of private and commercial standards. Belize wished to sensitize the Committee that in the case of many small and vulnerable economies, which in some cases depended on the export of one product, market access was not determined by compliance with international standards, but by producers' ability to comply with private standards. Hence, the fact that those private standards were being constantly changed affected market access, and put at risk the economies of those small and vulnerable countries. Belize hoped that Members would work collectively in the Committee towards defining measures which could address the negative impact of private standards on the ability of developing countries to gain and maintain market access.

152. The representative of Uruguay noted his support for the statement made by Ecuador on behalf of GRULAC, and for the establishment of a permanent monitoring mechanism by the Committee of private standards. Uruguay also noted its satisfaction with the progress made, with the help of the Secretariat, in a process which had started a few years ago, and which had now seen specific examples being provided. Nonetheless, Uruguay asked whether in the preparation of its descriptive report the Secretariat could include more specific examples to broaden and enrich the scope of the descriptive matrix. All Members had been asked to reply to the questionnaire with specific examples and that the examples provided had helped identify the market access costs linked to private standards. Uruguay thanked the European Communities for its efforts to sensitize entities involved with private standards, and noted that all Members had to work harder in that regard. Uruguay recalled the importance of the Committee's objective of harmonization of standards, requirements, certification, etc, and of achieving harmonization in the area of private standards, as well as increasing transparency. While the most important issue was that of greater compliance with the standards of Codex, IPPC and OIE, all private standards which went beyond these international standards should be based on scientific evidence. The role and the jurisprudence of Codex, IPPC and OIE in the area of standards setting had to be safeguarded.

153. The representative of Egypt thanked the Secretariat and the Chair for what was now concrete information and examples from Members on (i) how difficult it was for developing countries to comply with private standards, and (ii) the costs of applying those standards. That information from Members provided the Secretariat with useful and relevant input and material for the preparation of its descriptive report, to be followed by an analytical report on concrete recommendations and actions to be taken by the Committee. Egypt agreed with Ecuador on the need for the Committee to undertake, in parallel to the work of the ad hoc working group, the monitoring of new private standards and related developments. Egypt requested that the analytical report be made available in advance of the October Committee meeting so that Members could come prepared to discuss it at the meeting.

154. The Chairman confirmed that the intention was to have the analytical report available in advance of the October meeting of the Committee. Regarding the suggestion by Ecuador and others for the Committee to monitor private standards, the Chairman noted that, as provided for in the agreed actions on private standards, Members could use the Committee's standing agenda item on private standards to raise concerns and report on developments. Furthermore, Members and Observers were invited to provide information on any relevant studies or analysis which they had undertaken, or of which they were aware.

155. The representative of the OIE noted that the concrete examples discussed in the ad hoc working group showed that private standards could cause confusion and potentially undermine the key disciplines of the SPS Agreement of transparency and scientific justification of standards. Furthermore, while the SPS Agreement was trying to establish a more level playing field for all Members, private standards had disproportionate negative effects on developing countries. The representative of the OIE noted that solutions were not easy to find, and that it would be unrealistic to expect that private standards would disappear. However, some actions could be taken, such as monitoring and transparency to make it more evident how private standards operated and in what area, and their effects. The OIE would continue participating in the SPS Committee processes, and would coordinate with its members to monitor developments relating to private standards which affected animal health and animal welfare, to provide more transparency and information on relevant developments.

156. The representative of Codex reported that the subject of private standards had been discussed at the previous Codex Alimentarius Commission meeting in 2007. The Commission had requested the FAO and WHO to compile existing studies and work on private standards in the area of food safety and quality and their implications. The study was expected to be presented for information and discussion in the next session of the Codex Alimentarius Commission in July 2009. Codex noted that the study would be shared with the SPS Committee as soon as it was completed.

157. The representative of UNCTAD reported that over the last three years, UNCTAD had conducted 12 country case studies on the subject of private standards with a focus on the exports of horticultural products, in particular fresh fruits and vegetables. There had been four studies in Latin America, four in East and Central Africa, and three in South East Asia. The results of those country case studies had been synthesized in three regional papers which had been published last year. The studies were available on the UNCTAD's Website.

158. UNCTAD noted that it was pursuing the study of private standards at the regional and national levels in cooperation with FAO. Also, under the umbrella of the World Bank and GTZ, UNCTAD was overseeing a trade standards practitioners network which could be used to coordinate analytical and empirical activities among international organizations and international research institutes. Those activities were likely to bring a number of results, including empirical results, to the table.

159. The OECD reported that it had started conducting studies on the issue of private standards about five years ago. More recent studies were based on case studies of developing countries under the hypothesis that different levels of economic development would probably influence the ability of those countries and their producers to meet the private standards and integrate international markets. Studies in Peru, Ghana, South Africa and Chile had shown the existence of great variations within countries, where the medium to larger exporters did not seem to have difficulties in meeting the private standards in their export markets, but for the smaller producers there was clearly a disadvantage in meeting these private standards. However, the representative of the OECD noted that many of those smaller producers were not in the market before in any case. The OECD representative added that other studies conducted with PIP on empirical work for ten African countries had not

shown such internal variations between domestic exporters due to private standards, rather there were other problems related to quality, quantity, and meeting deadlines.

160. The representative of the OECD noted that in many cases there were a number of problems other than private standards which affected trade, such as economic development. There were often problems at the producer level to meet the demands of the export markets and infrastructure-related problems. For example, Peru was the world's largest exporter of fresh green asparagus because of various initiatives which had been taken by the private sector such as building a port facility for cooling. On the other hand, the mango sector in Peru was a traditional product sector and producers had difficulties maintaining access to major retail export markets as they faced transport and cooling problems linked to the nature of the industry itself.

161. The OECD noted that private standards were not always the only trade impediment faced by developing countries, and it was clear that countries which could meet them had a competitive advantage. Furthermore, certification was not necessarily required every year, trust between retailers and suppliers was often the key parameter. The studies mentioned were available on the OECD website, along with the questionnaires used and the results and reports. Finally, the representative of the OECD supported the suggestion by Ecuador for the Committee to monitor private standards, in parallel with the work of the ad hoc group on private standards.

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

162. The representative of the OIE referred to OIE's report in document G/SPS/GEN/905. The key issues covered in that report were: a new OIE advisory document on the rights and obligations of OIE Members with regard to international trade and trade disputes; work on OIE standards for bovine spongiform encephalopathy, foot and mouth disease and avian influenza; and a progress report on key OIE capacity building activities.

163. The OIE advisory document summarized the rights and obligations of OIE members with regard to trade and trade disputes and explained OIE's voluntary dispute resolution mechanism including the procedures, selection of experts, confidentiality aspects and how to reach science-based solutions. The second part of the document addressed the rights and obligations of Members relevant to exporting, including SPS provisions. The OIE considered the document a useful reference, especially in light of discussions about the use or non-use of OIE and other international standards, and welcomed any feedback from the Committee.

164. The representative of Codex referred to the report in document G/SPS/GEN/909. He informed the Committee that the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) had, at its November 2008 meeting, agreed to forward the renamed Generic Model Official Certificate to the 32nd Session of the Codex Alimentarius Commission for final adoption. The certificate was fully compatible and consistent with OIE certificates. Codex noted that it was examining whether the Generic Model should also apply to its other commodity-specific certificates.

165. The representative of Codex indicated that the 40th Session of the Codex Committee on Food Hygiene agreed to forward to the Codex Alimentarius Commission, for final adoption in July 2009, the Microbiological Criteria for Powdered Follow-up Formula and Formulas for Special Medical Purposes for Young Children and the Proposed Draft Microbiological Criteria for *Listeria monocytogenes* in Ready-to-Eat Foods. Given the complexity of the issue, that work had taken ten years to finalize, and Codex wished to commend the enormous efforts by Members to contribute scientific data.

166. The representative of Codex drew attention to upcoming Codex meetings, including the Twenty-sixth Session of the Codex Committee on General Principles (CCGP) which would consider the participation of developing countries in the Codex standards-setting process. Those discussions at the CCGP would be guided by a document prepared by the Codex secretariat and which included statistics and analysis over a ten year period, together with data and information from the Codex Trust Fund. The April meeting of the CCGP offered an excellent opportunity for Members to look at the participation of developing countries in the development of standards.

167. Finally, the representative of Codex reported that Montenegro, Comoros and Tajikistan had joined the Codex Alimentarius Commission: bringing the membership to 179 member countries and one member organization, the European Communities. A few other countries were in the process of consultation, and Codex hoped to report on new Members at the June meeting of the SPS Committee.

168. The representative of IPPC reported on standard-setting activities by IPPC since the last meeting of the Committee, including: a meeting of the Standards Committee in Brazil in November 2008; a meeting of the technical panel on forest quarantine in Chile in December 2008; and a meeting of the technical panel on phytosanitary treatments in Japan in January 2009. The Standards Committee had recommended four draft ISPMs for adoption at the Fourth Session of the Commission on Phytosanitary Measures (CPM 4), scheduled from 30 March to 3 April. In addition, several draft ISPMs were being presented to the Standards Committee in May, prior to sending draft standards to countries for consultation.

169. The representative of the IPPC observed that: (i) the IPPC had now 170 contracting parties, with three additional countries engaged in the process of ratification; (ii) the IPPC website was being redesigned and should be ready for demonstration in April; (iii) a on-line system for the submission of comments from contracting parties on draft ISPMs was currently being revised; and (iv) staffing was still an issue despite the assistance from Members with short-term staff, and IPPC was working on finding sustainable staffing solutions and had issued two vacancy announcements. The report from the IPPC was subsequently circulated as G/SPS/GEN/915.

170. The representative of ITC reported that three new bulletins had been prepared in 2008 and were available on the ITC website. The bulletins covered: (i) exporting seafood to the European Union; (ii) an introduction to ISO 22000 on Food Safety Management Systems; and (iii) a directory of marks and labels related to food safety, environmental integrity, and social equity.

171. The ITC also reported on a seminar on "Fostering Trade through Public-Private Dialogue: Business Implications of the Emerging International Trading System for Central American countries" held on 15-16 December 2008 in Santo Domingo. The seminar focused on three issues: (i) food standards and the challenge of traceability; (ii) "branding" as a means to improve market position; and (iii) public procurement and competition policy. Presentations and case studies from the seminar were available on the ITC website. Finally, the representative of ITC mentioned that within the framework of the STDF 69 project for the fisheries sector in Yemen, a workshop on SPS marketing issues in the fisheries sector in Yemen would be organized on 22 March in Sanaa. The workshop was aimed at (i) raising awareness among stakeholders about the main SPS and marketing issues that the sector was currently facing, and (ii) finding solutions through private-public sector dialogue and cooperation. The report from the ITC was subsequently circulated as G/SPS/GEN/914.

172. The Secretariat called the Committee's attention to a paper submitted by OIRSA providing an update of their activities in document G/SPS/GEN/907. The Secretariat also informed the Committee that it had been invited to participate in a new liaison group of the Convention on Biological Diversity (CBD) on alien invasive species, not covered by IPPC standards. Other organizations, including the Codex, IPPC and OIE, had also been invited to participate in the discussions of the liaison group, and the Secretariat would keep the Committee informed on the discussions.

XIII. REQUESTS FOR OBSERVER STATUS

173. The Committee agreed to invite all of the ad hoc observers to participate in its next meeting, including the informal meetings on the Review and on special and differential treatment.

174. There was no change in the position of Members with respect to the pending requests for observer status from the Asian and Pacific Coconut Community (APPC), Convention on Biological Diversity (CBD), International Vine and Wine Office (OIV) and the Gulf Customs Council Standardization Organization. These outstanding requests would be considered at the next regular meeting.

XIV. ELECTION OF CHAIRPERSON

175. The Chairman indicated that the Chairman of the Council for Trade in Goods had been carrying out informal consultations on a slate of names for appointment as chairpersons to the subsidiary bodies of the Council for Trade in Goods in accordance with the established Guidelines for Appointment of Officers to WTO bodies (contained in document WT/L/31). Those consultations had not yet reached a conclusion. As such, the Chairman suggested that the election of the Chairperson of the Committee be postponed until the next Committee meeting in June. The Committee agreed to take up the election of the Chairperson at the time of its first informal meeting, scheduled for 23 June 2009, with the Committee briefly switching to formal mode to acclaim its new Chairperson.

XV. OTHER BUSINESS

176. No issues were raised under "Other Business".

XVI. DATE AND AGENDA FOR NEXT MEETING

177. The Chairman recalled that the next meeting of the Committee was tentatively scheduled for 24-25 June 2009. Informal meetings on the Review and special and differential treatment were scheduled for 23 June 2009.

178. The Secretariat flagged that the June meetings would face time constraints as the TBT Committee was also meeting in that same week, and there was hence a need to start on time. The Secretariat also noted that the June meetings of the Committee would take place immediately prior to the June Codex Alimentarius Commission meeting. This could hopefully prove convenient for the participation of capital-based delegates to both meetings.

179. The Committee agreed on the following tentative agenda for the next meeting:

1. Proposed agenda
2. Election of Chairperson
3. Specific trade concerns
 - (a) New issues
 - (b) Issues previously raised
 - (c) Consideration of specific notifications received
 - (d) Information on resolution of issues in G/SPS/GEN/204/Rev.9
4. Operation of transparency provisions
5. Implementation of special and differential treatment
 - (a) Report on informal meeting

- (b) Review of operation of S&D transparency procedure (G/SPS/33)
 - 6. Equivalence – Article 4
 - (a) Information from Members on their experiences
 - (b) Information from relevant observer organizations
 - 7. Pest- and Disease-free areas – Article 6
 - (a) Information from Members on their pest or disease status
 - (b) Information from Members on their experiences in recognition of pest- or disease-free areas
 - (c) Information from relevant observer organizations
 - 8. Technical assistance and cooperation
 - (a) Information from the Secretariat
 - (b) Information from Members
 - (c) Information from observers
 - 9. Review of the Operation and Implementation of the SPS Agreement
 - (a) Issues arising from the Second Review
 - (i) Use of ad hoc consultations
 - (ii) Relationship between the SPS Committee, Codex, IPPC and OIE
 - (b) Third Review
 - (i) Report on informal meeting
 - (ii) Consideration of draft report
 - 10. Monitoring of the use of international standards
 - (a) New issues
 - (b) Issues previously raised
 - (c) Annual report
 - 11. Concerns with private and commercial standards
 - (a) Report on Chair's consultations
 - (b) Consideration of descriptive report
 - 12. Matters of interest arising from the work of observer organizations
 - 13. Observers – Request for observer status
 - 14. Other business
 - 15. Date and agenda of next meeting
179. Members were asked to take note of the following deadlines:
- (i) For submitting proposals on issues to be considered by the Committee during the Third Review: **Friday, 27 March;**
 - (ii) For submitting new or revised responses to the questionnaire on private standards (W/232): **Friday, 24 April;**
 - (iii) For submitting comments on the various proposals before the Committee: **Friday, 24 April** that is:
 - Argentina/US joint proposal on ad hoc consultations (W/233),

- China's proposal regarding Annex C (W/234), and
 - the revised proposal on transparency of special and differential treatment (G/SPS/W/224/Rev.3);
- (iv) For identifying new issues for consideration under the monitoring procedure, AND for requesting that items be put on the agenda: **Thursday, 11 June 2009**
- (v) For the distribution of the airgram: **Friday, 12 June 2009**
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