
Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 23-24 JUNE 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-fifth regular meeting on 25-26 February 2009. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3385).

II. ELECTION OF CHAIRPERSON

2. The Chairman indicated that the Chairman of the Council for Trade in Goods had consulted on a slate of names for appointment of 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). In light of these consultations, the Council for Trade in Goods had approved Ms Miriam Chaves of Argentina as chairperson of the SPS Committee for 2009/2010. The Committee endorsed the selection of Ms Chaves by acclamation, and voiced its appreciation to Mr Huige for his considerable efforts and accomplishments as chairperson during the previous two years.

3. The Chairman expressed his gratitude to all Members for their cooperation and assistance during his tenure as Chairperson of the SPS Committee. He also thanked the Secretariat for its assistance, and offered his support to the new chairperson.

4. In assuming the role of chairperson, Ms Chaves expressed her appreciation for the confidence shown by Members in giving her this responsibility, and her interest to continue to support the work of the Committee.

III. ACTIVITIES OF MEMBERS

(a) Influenza H1N1

5. The representative of Canada expressed concern regarding certain trade restrictions on pork and pork products imposed on account of H1N1, as there was no scientific justification in this regard. Canada also referenced the 7 May 2009 FAO/WHO/OIE joint statement which reaffirmed that influenza viruses were not known to be transmissible to people through eating processed pork or other food products derived from pigs. Canada requested that measures against Canadian pork and pork products be removed as soon as possible in order to resume normal trade.

6. The representative of Mexico noted that it had included a specific trade concern on this issue in the agenda for the meeting. The representative of Japan supported the statement by Canada and indicated that careful handling of pork and pork products would ensure that the virus would not be transmitted.

7. The representatives of Argentina, Brazil, Chile, the European Communities, New Zealand, Paraguay and the United States shared the concerns of Canada and Japan. The representatives of Argentina, Brazil, Chile and Paraguay stated that no cases of H1N1 had been detected within their territories and urged Members to lift restrictions on pork and pork products.

8. The representative of the United States explained that many agencies in the United States were working together to improve conditions with respect to this outbreak. The US Centers for Disease Control had been collecting information regarding possible human exposure to swine. She explained that in the United States, a network of Federal veterinarians, state animal health officials and private practitioners regularly monitor US swine for signs of significant disease. To date, there had been no reports that the influenza virus currently causing illness in humans was circulating anywhere in the US swine herd. The USDA was working closely with the US pork industry and

assured Members that there was no evidence of H1N1 in swine in its territory. Citing the numerous statements from the OIE, WHO and WTO, the representative of the United States urged countries to immediately remove their non-science based restrictions on live swine, pork and products from the United States.

9. The representative of New Zealand reported that twelve Members were still maintaining restrictions on pork products from New Zealand, despite reporting cases of H1N1 within their own territories. New Zealand urged these Members to lift the restrictions immediately. The representative of the European Communities also requested Members who had reported H1N1 incidents within their territories to lift restrictions immediately. Such measures brought down consumer confidence globally and had unnecessarily impeded international trade.

10. The representative of Mexico made a detailed presentation on the difficulties faced by Mexico due to Influenza A/H1N1, and described the various measures taken by Mexico to try to prevent this virus causing an epidemic. More information is available in document (G/SPS/GEN/921).

(b) Global Conference on Foot-and-Mouth Disease (FMD)

11. The representative of Paraguay provided information on the World Conference on FMD which was taking place in Paraguay. The current situation of FMD globally was being discussed at the conference, with special emphasis on measures taken across the world to prevent the disease, on the development and application of vaccines, and on diagnostic methods in certain species. Over 500 delegates were participating in the conference. Discussions were to result in recommendations to be adopted by delegates with the aim of mobilizing organizations, governments and all stakeholders around the world in efforts to control the disease.

(c) Mango Exports from Paraguay (G/SPS/GEN/934)

12. The representative of Paraguay reported on a pilot scheme for mango exports to regional markets. Paraguay was registering mango producers, and fruit flies were being monitored to identify species that attacked mangoes. Paraguay was also conducting a study on the best geographic location for a hydrothermal processing plant for mangoes, in order to facilitate transport of mangoes from the farm to the plant.

(d) Argentine System for Phytosanitary Import Authorizations

13. The representative of Argentina drew attention to the information in G/SPS/GEN/923, regarding the new phytosanitary import authorizations being developed for use by the National Agri-Food Health and Quality Service (SENASA). The new system would result in changes to the Phytosanitary Import Authorization (AFIDI) document, that would permit more computerized management of the documentation required for control purposes. The new system would not affect the modalities for meeting the SPS requirements of Argentina, and the previous form of AFIDIs could continue to be used until the introduction of the new model.

(e) Pest Survey Programmes in Zambia

14. The representative of Zambia reported on a pest survey programme detailed in G/SPS/GEN/941. The fruit fly survey had covered over 50 districts in nine provinces in Zambia and the survey was to continue in other parts of the country. Zambia was in the process of conducting training programmes for provincial trainers and would enlist stakeholders to manage the situation.

15. The representative of Zambia also provided information on the survey for American Foulbrood (AFB) in honeybees. Samples had been collected from areas with significant production of

natural honey and 770 samples had been submitted to the Agriculture Research Council in South Africa for further analysis. There is no indication of the presence of AFB in Zambia to date.

16. The representative of Zambia also reported on surveys for seed crops, potato cyst nematode, and banana bunchy-top virus.

(f) Measures to Prevent Entry of Yellow Dragon Disease into Cost Rica

17. The representative of Costa Rica provided information on measures to control the citrus bacterial disease Huanlongbing, also known as Yellow Dragon disease. As reported in G/SPS/GEN/930, steps were being taken to prevent the entry of the disease into Costa Rica, including increased inspection of citrus material at entry points into the country, technical training of field and laboratory technicians, training of producers and sampling of vector insects at the national level.

(g) Australia's Biosecurity Arrangements

18. The representative of Australia provided an update on the implementation of the recommendations arising from the independent review of Australia's quarantine bio-security arrangements. New legislation was being developed to replace the 100 year old quarantine act to provide modern and effective management of biosecurity risks, and a draft of the legislation would be released in late 2009 for public comment. Negotiations were underway to establish a new national agreement on biosecurity which would include emergency and disease response measures. Institutional reforms were also underway, and the Biosecurity Services Group would be established on 1 July 2009 incorporating Biosecurity Australia, the Australia Quarantine and Inspection Service and parts of the Product Integrity Animal and Plant Health Division in the Department of Agriculture, Fisheries and Forestry. Australia's science-based import risk assessment, import inspection and clearance and export certification processes would continue in their present form until the new reforms were implemented. These changes would not affect Australia's contribution to the SPS Committee, Codex, IPPC, or the OIE.

(h) Zimbabwe National SPS Coordinating Committee

19. The representative of Zimbabwe reported that the national coordination committee on SPS issues was being revived. Various stakeholders were being included in the committee, including relevant government departments, private sector representatives, and academic and other organizations involved in food safety, animal health and plant health. The coordinating committee aimed to establish a national SPS council that would be formed through an Act of Parliament. Zimbabwe was currently considering ratification of the IPPC Convention and hoped this would be possible by the end of 2009. The WTO Secretariat was scheduled to conduct a national SPS training workshop in the coming months. On the regional front, Zimbabwe was actively involved in the Southern Africa Development Committee (SADC) food safety project to identify ways in which member states could harmonize SPS policies and laws.

(i) Phytosanitary Actions in Mozambique

20. The representative of Mozambique reported that its plant health regulations had been improved in accordance with the IPPC standards, and were scheduled to enter into force in September 2009. Mozambique would declare areas free of fruit fly and identify low prevalence areas in order to ensure recognition of its food products, as its south and central regions were free of fruit flies after twelve months of systematic food surveillance. National workshops related to the disciplines of the SPS Agreement were being conducted; one workshop had been conducted by the WTO Secretariat in December 2008, and another workshop relating to SPS activities took place on 13 June 2009.

IV. SPECIFIC TRADE CONCERNS

(a) New Issues

(i) *Import Restrictions on Pork Products Due to Influenza A/H1N1 Maintained by Armenia, Bahrain, China, Gabon, Indonesia, Jordan, and Surinam – Concerns of Mexico (G/SPS/GEN/921, G/SPS/N/CHN/116, G/SPS/N/JOR/20, G/SPS/N/UKR/2)*

21. The representative of Mexico indicated concern over import restrictions on live pigs, pork products and sub-products due to Influenza A/H1N1. Mexico had complied with WTO and other relevant international recommendations since declaring the influenza outbreak on 23 April 2009. Document G/SPS/GEN/921 provided information on the actions taken by the Mexican Government to control the disease, as well as information on the virus and its form of dissemination. Mexico urged Members to notify the Committee of measures taken with regard to the virus. The FAO and the OIE stated that there was no evidence of transmission of the virus through food, and Mexico was disappointed that Armenia, Bahrain, China, Gabon, Indonesia, Jordan, and Surinam continued to restrict the import of pork and pork products without any legal or scientific basis. Mexico was grateful to China, Indonesia and Jordan for holding bilateral consultations on the matter, and intended to hold bilateral consultations with other countries. Australia, Brazil, Canada, the Dominican Republic and the United States supported Mexico's concern and Brazil provided further information in document G/SPS/S/GEN/922.

22. The representative of Indonesia thanked Mexico and the United States for the bilateral consultations and stressed Indonesia's commitment to protect its territory and industries from the virus.

23. The representative of China underlined the fact that China was the most populous nation in the world, and stressed the burden this virus could have on its public health system. Despite measures to prevent entry of the disease into China, there had still been instances of detection of the virus, which highlighted how contagious it was. The provisional measures imposed by China took into account its huge population, its susceptibility to the disease through human-to-human transmission, the fact that China were the world's biggest producer of pork and that pork was the most consumed meat product in the country. China had lifted the ban on pork treated to 70 degrees centigrade. Chinese experts would continue to work with other Members. China had notified the WTO of its measures.

24. The representative of Jordan stated that it had imposed only a temporary suspension on the transport and import of live swine, and that heat-treated pork products were exempt from the suspension. The temporary measures were under constant revision.

(ii) *Indonesia's New Meat Import Conditions – Concerns of the European Communities*

25. The representative of the European Communities stated that Indonesia's import restrictions with regard to BSE were unjustified and higher than OIE standards. Indonesia prohibited imports from Members with an undetermined or controlled BSE risk, as well as products which the OIE had identified as safely tradeable irrespective of the BSE risk status of the exporting country. The European Communities welcomed Indonesia's new legislation incorporating the principle of regionalization, but questioned the justification for limiting its applicability only to foot and mouth disease, which was not in line with the OIE Terrestrial Animal Health Code. It appeared that none of the EC comments were taken into account when the new import conditions came into existence in April 2009. The European Communities requested Indonesia to accept regionalization commitments and to provide clear scientific justification for measures which went beyond the OIE standards.

26. The representative of Indonesia expressed willingness to further discuss the matter during bilateral consultations.

(iii) *Colombia's Import Restrictions on Gelatine from Bovine Hides and Head Skin Due to BSE Requirements – Concerns of Brazil*

27. The representative of Brazil referred to Chapter 11.6.1 of the OIE Terrestrial Animal Health Code according to which there was no scientific evidence for banning imports of gelatine derived from cattle hides and skins, even when derived from the cattle's head or neck. However, item 14.10.1 of the Andean Communities Resolution number 1130 stated that independently from the BSE status of the country, the imported gelatine must be prepared from hides and skins, excluding that derived from heads and necks, which was not in accordance with OIE provisions. Brazil had withdrawn a previous request to include this concern on the agenda of the Committee, following bilateral consultations with Colombia in February 2009 as the Colombian authorities had indicated that the Andean Committee on Animal Health would review and modify this provision. However, Brazil had not received notice of modification of the notification, and requested Colombia and other Andean countries to revise their national requirements without waiting for the Andean legislative process so as to immediately allow bilateral trade of gelatine. Brazil also inquired whether there was a timetable to review the legislative restrictions on gelatine exporters.

28. The representative of Colombia responded that his government was working with Andean Community authorities to resolve the issue raised by Brazil. Although there was no timetable to review the restrictions, Colombia was willing to provide information bilaterally on the actions underway.

29. The representative of the OIE confirmed that gelatine produced from skins and hides was a safe commodity with regard to BSE. At the recent OIE General Assembly, some additional provisions with regard to gelatine manufactured from bones had been agreed, thus extending the range of products which were considered as safe for the production of gelatine.

(iv) *Colombia's Sanitary Requirements for Importation of Products of Animal Origin – Concerns of Panama*

30. No representative of Panama was present to raise this issue, so it was not considered by the Committee.

(v) *Certain Member's Restrictions on Catfish – Concerns of Viet Nam*

31. No representative of Viet Nam was present to raise this issue, so it was not considered by the Committee.

(vi) *US Measures on Food Products Containing Meat, Poultry or Processed Egg Products – Concerns of China*

32. The representative of China observed that US notification G/SPS/N/USA/1913 allowed only those countries whose administrative scheme for food safety and inspection services regarding food products containing small amounts of meat, poultry or processed egg products was identified as equivalent to that of the United States to export food products containing these ingredients. This recent measure was based on the Federal Inspection Law enacted of 1972. China requested the United States to provide the relevant risk assessment supporting these new measures, or to withdraw the measures if there was no scientific justification. China was of the view that the measure was not in accordance with Articles 2.2 and 5.6 of the SPS Agreement.

33. The representative of Korea shared the concern of China, as Korea had previously exported products to the United States containing small amounts of meat and poultry without any problem. Korea requested that the United States comply with international standards in this regard, as well as with paragraph 2 of Annex B of the SPS Agreement, according to which Members should allow a reasonable period of time between the adoption of SPS regulations and their entry into force, in order to allow producers and exporters to adapt to the new requirements. Most products affected by this measure, such as gravy, had a very low level of poultry and meat content, and many had undergone heat treatment processes.

34. The representative of Japan shared the concerns of China and Korea and asked the United States to apply the measure with as much flexibility as possible so as to minimize its trade restrictive effects.

35. The representative of the United States explained that the bases of these restrictions were the Federal Meat Inspection Act, Poultry Products Inspection Act, and the Egg Product Inspection Act. Recent inspections by the USDA Food Safety Inspection Service (FSIS) found that some products entering the United States contained ingredients that did not originate from an approved source. Any product found to be in violation of the requirement, as identified through routine FSIS inspections, was rejected. In order to comply with the requirement, importers seeking a permit after 22 June 2009 would need to provide an attestation along with the permit application that the meat or poultry ingredient was from an approved source. The USDA would announce requirements for egg products in the near future, as there were also public health concerns in this regard. Members would be informed of all relevant measures and modifications, and were encouraged to work with the FSIS.

(vii) Japan's Pesticide Maximum Residue Levels (MRLs) – Concerns of Brazil

36. The representative of Brazil noted that Japan imposed stricter pesticide residue limits than Codex, because it required industry-wide testing for one MRL violation and a 100 per cent test-and-hold policy in case a second violation involving the same pesticide and commodity took place within one year. Brazil had difficulty in exporting green coffee beans to Japan, as Japan's MRL was 30 times lower than that of Codex. In a bilateral meeting, Japan had stated that the revision of these MRLs would take place within two years. Brazil had requested an interim transitional mechanism as trade in coffee was worth over US\$300 million per year. Brazil exported coffee to over 100 countries and requested Japan to modify their procedures in line with international standards, or provide a transitional period while the Japanese authorities decided on the revision of the requirement without any negative impact on Brazilian coffee exports.

37. The representative of China supported Brazil's concern, and requested that Japan's temporary standards be based on scientific justification and a risk analysis. These measures had been applied for a period of three years, adversely affecting Chinese food exports to Japan. Furthermore, Japan's uniform standard of 0.01 ppm for several pesticides was arbitrary and without scientific justification. China requested that Japan brings its requirements into line with the relevant international standards. China's exporters indicated that imported products were subjected to a greater number of random inspections. Furthermore, inspections were carried out only on certain imported products, even though the same pesticides were also used domestically in Japan. China urged Japan to apply its measures uniformly without any discrimination.

38. The representative of Japan clarified that the MRLs were based on scientific assessment, and Codex and other international standards were taken into account when enforcing the measures. Japan had notified the WTO before establishing these MRLs and had received comments. The SPS Agreement was taken into consideration, and the measures were applied equally to imported and domestic products. The frequency of inspections was increased based on findings of violations. Japan confirmed that the Codex MRLs would be the basis of the current revision, which would occur

by December at the earliest. Japan expressed its commitment to continuing bilateral discussions with Brazil.

(viii) *Proposed US Rule on Importation of Wooden Handicrafts from China (G/SPS/N/USA/1921) – Concerns of China*

39. The representative of China expressed gratitude to the United States for a bilateral meeting regarding the new notification that all wooden handicrafts would have to be subject to heat treatment and fumigation. China requested that the requirement be limited only to those products for which there was an identified risk, and that the measure comply with Article 5.6 of the SPS Agreement.

40. The representative of the United States recalled that between 2002 and 2005, during routine inspections at US ports of entry, significant pests were found 418 times including in artificial Christmas trees, wooden home products and wood handicraft items, despite certification by China. The United States continued to allow wood products from China to be exported to the United States subject to a new bark-removal condition. Upon completion of the risk assessment in 2008, the United States shared its findings with China and initiated several bilateral technical meetings to explain its position to ensure that all interested stakeholders were well informed. The new rule for importation was circulated to all Members on 27 April 2009, and the comment period closed on 8 June 2009. The United States thanked Members for providing comments and assured that these would be reviewed before a final determination on the matter.

(b) Issues Previously Raised

(i) *China's Hygienic Standard for Distilled Spirits and Integrated Alcoholic Beverages (G/SPS/N/CHN/111) (STC 278) - Concerns of Mexico*

41. The representative of Mexico recalled its concern with China's regulation for alcoholic beverages regarding maximum quantities of ethanol. Mexico had provided its comments during the specified period, and hoped that these would be taken into account.

42. The representative of China clarified that the national standards were applied to all distilled and alcoholic beverages equally and were not aimed specifically at Tequila. A written reply to Mexico's comments had been provided, and China hoped a mutually satisfactory solution would be found through the ongoing technical discussions.

(ii) *India's Non-respect of International Standards, in Particular in Relation to Avian Flu (STC 185) – Concerns of the European Communities*

43. The representative of the European Communities appreciated the bilateral meetings with India but remained concerned that India's measures were not consistent with OIE standards. Despite having raised the concern previously, India continued to make no distinction between low and high pathogenic influenza, and had still not shared its scientific justification for the measures. The European Communities regretted that India did not adhere to the principle of regionalization, and furthermore that India banned imports of live pigs citing avian influenza fears but had no such ban on the domestic market. The European Communities called upon India to base its import requirements on the relevant international standards.

44. The representative of the United States shared the concern raised by the European Communities and noted that India prohibited the import of a large number of items, in disregard of the relevant OIE Chapter. The United States requested that the bans on swine be lifted and that scientific justification be provided for all measures. In addition, the United States requested India to provide a copy of its risk assessment for the measures relating to avian influenza.

45. The representative of India stated that the ban on pork products was taken to prevent an outbreak of avian influenza. The measures were based not only on OIE guidelines, but on relevant scientific literature. Technical experts re-evaluated the scientific information every six months, and now imports were banned only from those countries reporting H5 and H7 strains of low pathogenic influenza. India was concerned that the low pathogenic virus could mutate into the high pathogenic virus, which had a greater impact on animal and human health. Trade concerns should not interfere with the protection of human and animal health. All restrictions regarding pork and poultry products except live pigs had been lifted from areas reporting avian influenza, because the avian influenza virus could mutate in the pigs, as both human and avian influenza viruses had established stable virus lineages in pigs. India applied the same measures to domestic products as to imports. India thanked the European Communities for fruitful bilateral discussions on 22 June 2009, and expressed its commitment to dialogues with all interested Members.

46. The representative of the OIE drew attention to the informal dispute resolution procedure of the OIE as a means to resolve technical differences relating to provisions of the Terrestrial Animal Health Code.

(iii) General Import Restrictions Due to BSE (STC 193) – Concerns of the European Communities

47. The representative of the European Communities drew attention to restrictions on bovine meat and related products still imposed by many Members. The European Communities requested that unjustified and discriminatory restrictions be removed. The OIE Code stated that no bans were necessary even if a country reported cases of BSE. EC measures to control BSE were exemplary and went far beyond OIE requirements, and the European Communities urged Members to establish fair, non-discriminatory and transparent rules for the import of bovine products.

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

48. The representative of Canada expressed concerns at Greece's testing and inspection requirements of imported cereals for genetically modified organisms. These requirements were onerous, with consignments being held for a period of up to seven working days following the taking of samples for testing, thus imposing additional costs and delays. Canada's wheat exports to Greece had fallen from almost Can\$49.4 million dollars in 2004, to only Can\$8.8 million dollars in 2008, with no exports in 2005 and 2006, partly due to these measures. GM wheat was not approved for commercial production in Canada. These measures were not risk based and were contrary to the WTO SPS Agreement. At a meeting on 6 May 2009 between the Greek Minister of Rural Development and Food and Canada's Ambassador to Greece, Canada was informed that a new decision which would reduce testing requirements to five per cent was being developed. Greece had agreed to provide more details in response to a letter from Canada's Minister for Agriculture and Agri-food concerning this issue. Canada looked forward to receiving a timely response from Greece in order to bring this issue to a conclusion.

49. The representative of the European Communities acknowledged this problem and stated that a number of legal issues had been raised in this regard within the EC framework in parallel with these bilateral efforts. The European Communities was awaiting a reply from Greece and was looking forward to a solution to the problem.

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

50. The representative of China stated that this issue had been previously raised several times both bilaterally and multilaterally. China remained concerned about undue delays in the pest risk assessment process. A period of 14 years had gone by and there had been no advancements with

regard to the risk assessment process. China requested further clarifications in this regard and hoped for the resumption of trade in apples between the United States and China.

51. The representative of the United States stated that the risk assessment process was underway but not yet completed, and expressed hope for a quick conclusion to the process.

(vi) *Other Issues*

52. The representative of Cuba made a general comment regarding the consideration of issues under agenda Item 4(b). Several of the trade concerns had been continuously raised over a long period of time. Referring to Argentina's proposal with regard to the use of the good offices of the Chairperson, Cuba suggested that some adjustments be made to improve the functioning of the Committee.

(c) Consideration of Specific Notifications Received

53. No Member raised any comments or interventions.

(d) Information on Resolution of Issues in G/SPS/GEN/204/Rev.9

(i) *Mexico's Import Restrictions on Rice (STC 270) – Concerns of Pakistan*

54. The representative of Pakistan reported that an agreement had been reached with Mexico on this issue, and all that was now required was that the final agreed procedures be published. The representative of Mexico confirmed that only some regulatory aspects had yet to be concluded with regard to the importation of rice from Pakistan.

(ii) *Chile's Requirement for Quarantine Treatment of Aircraft (STC 260) – Concerns of Argentina*

55. The representative of Argentina expressed appreciation to Chile for the information it had provided and informed the Committee that its concern had been resolved. The representative of Chile confirmed that this issue had been clarified.

V. OPERATION OF TRANSPARENCY PROVISIONS

56. 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 was contained in G/SPS/ENQ/24. She reminded the Committee that the paper copies of these lists were now updated only once every year, but the electronic lists were constantly updated and available through the SPS Information Management System (IMS). The list of Members that had designated Notification Authorities and Enquiry Points was contained in G/SPS/GEN/27/Rev.19.

57. Notifications received since the last meeting of the SPS Committee were summarized on a monthly basis, in G/SPS/GEN/910, GEN/917, GEN/924 and GEN/944. The list of membership in the Codex, IPPC, OIE and WTO was contained in G/SPS/GEN/49/Rev.9.

58. The Secretariat observed that there had been a smooth transition by most Members from the old to the new formats for notifications, and urged Members whose National Notification Authorities had not yet done so to use the new formats and to submit these electronically. Development of an online system of submitting notifications was underway and should be available by the end of 2009, and would first be available for SPS notifications. The Secretariat urged Members to ensure their notifications were complete, indicating whether the measure was based on an international standard, and providing information regarding any deviations. Members were also requested to keep the

Secretariat informed of any change in contact information of Notification Authorities or Inquiry Points.

59. The Secretariat provided the Committee with an update on the mentoring mechanism, which was launched in May 2008. A total of 18 mentoring requests and nine mentoring offers had been received, and some mentors had accepted two or more mentorees. The Secretariat thanked Members who had offered to assist other Members, and reported that there were no outstanding requests at this time. The Secretariat encouraged more mentoring offers and feedback from Members on their experiences.

60. The representative of India stated that the lack of information on notifications about measures taken by Members created difficulties. Even limited information would be helpful, as it would enable greater understanding as to the number of measures that deviated from international standards. The representative of Egypt suggested the inclusion of links to international standards in the online notifications interface to facilitate information sharing for the measures notified. The representatives of Chile, Mexico and Pakistan also commented on the lack of information, and urged the Committee to find a solution to the problem.

61. The Secretariat clarified that if a notification was missing some critical information, this would be sought from the notifying authority, as they had the legal obligation to provide complete information. The process for providing information was continually being made simpler, and Members now had to choose from one of four justifications based on the SPS Agreement, and the default period for a comment period was set at sixty days. The Secretariat had considered the possibility of a drop-down list of international standards, but it was not feasible as there were far too many standards. Instead of a drop-down list, the on-line form under development would provide hyperlinks to the Codex, IPPC, or OIE websites.

VI. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

(a) Report on the Informal Meeting

62. The Chairperson reported that during the informal meeting on special and differential treatment on 22 June, Members had focused 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.

63. The Chairperson had recalled that 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 one year after its adoption. In February 2006, the Committee had agreed to extend the procedure without modification, but to review it again in 2008. However, in 2008 the Committee had not been able to reach agreement on proposed revisions to the procedure, and the review continued.

64. In this regard, the informal meeting had considered the proposed revisions to the procedure as reflected and incorporated in G/SPS/W/224/Rev.4.

65. A number of Members had expressed diverging positions regarding specific wording that had been proposed in the last revision, in some cases wanting to revert to earlier wording, in other cases suggesting different wording. Many of the comments concerned the language in Steps 1 to 4. The Secretariat had recalled that the information provided in Steps 1 to 4 was not intended to create any new obligations or procedures, but was drawn from the relevant provisions in the SPS Agreement, the Ministerial Decision, and procedures and guidelines previously adopted by the Committee. In light of this, the Secretariat had suggested that the next revision might be simplified by referring explicitly to the existing relevant texts, rather than trying to restate this information in Steps 1 to 4. The

substantive elements of this procedure were contained in Steps 5, 6 and 7, where there did not seem to be too great a difference in views among Members.

66. Some delegates had expressed concern with the proposed deletion of several of the provisions that had previously been included in paragraph 2, including (i) assessment of developing country Members' needs in order to ensure the effective functioning of a National Notification Authority and Enquiry Point; (ii) identification of funds for the participation of developing country's National Notification Authority and Enquiry Point in the Committee meetings; and (iii) development of a "quick guide" to inform developing country Members of the steps to take in case of an SPS measure which might have a significant effect on their trade. The representative of Egypt had suggested that if Members did not believe these elements should be included in the S&D transparency procedure, the Committee should agree to consider them elsewhere, for example during the Third Review of the Operation and Implementation of the SPS Agreement.

67. The representative of Egypt had also noted that it appeared that some Members requested and received S&D treatment in specific circumstances, but that making public the request for special treatment, or the fact that special treatment had been provided, could be politically sensitive for both the exporting and importing Members. The next revision might, therefore, "encourage" the sharing of such information but not "require" the submission of notifications.

68. No Member had objected to the Secretariat's proposal for the simplification of the revision of G/SPS/W/224/Rev.4. The Chairperson had urged delegations to consult among themselves to resolve their differences regarding this procedure. A revised document would be available for consideration at the next Committee meeting in October.

69. The Chairperson concluded her report by indicating that no other matters related to special and differential treatment had been raised at the informal meeting.

70. The Chairperson announced her willingness to undertake informal consultations on the implementation of special and differential treatment, and assured delegates that she would provide sufficient time between giving notice of any informal meeting and the actual meeting.

VII. EQUIVALENCE – ARTICLE 4

(a) Information from Members on their Experiences

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

(b) Information from Relevant Observer Organizations

72. The representative of the OIE stated that it was not currently involved in any specific work on equivalence, but equivalence was reflected in the development of standards, as where possible, different actions that provided the same level of health protection were identified.

73. The representative of Codex informed the Committee that it had developed specific texts regarding equivalence, and the last text had been adopted two years previously.

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

(a) Information from Members on their Pest- and Disease-free Status

(i) *Belize – Freedom from Mediterranean Fruit Fly (G/SPS/GEN/920)*

74. The representative of Belize reported that the Mediterranean fruit fly programme had been initiated in 1977, as a surveillance programme. In 1987, the programme had been modified to its present comprehensive status which had allowed Belize to maintain its fruit fly free status for 14 years, and market access for several non-traditional products. Belize thanked the United States for recognizing its disease-free status as of 2001, and reiterated that fruit flies had been conclusively controlled in its territory.

(ii) *Brazil – STDF Project on Sanitary Compartmentalization in the Poultry Meat Production Chain*

75. The representative of Brazil reported that the project had been undertaken to prevent an avian flu outbreak in the Brazilian poultry system and was the result of a partnership with the OIE. Two OIE veterinary missions took place in 2006 and 2008 to verify poultry systems. The criteria taken into account were the achievement of strict biosecurity standards and geographical location. The working plan had been approved by the STDF, although it was financed by Brazil. Brazil intended to achieve 100 percent sensitivity to avian flu, and an early detection system to detect flu in the avian population for better animal and consumer health.

(iii) *Indonesia – Freedom from Khapra Beetle*

76. The representative of Indonesia described its efforts to eradicate Khapra beetle within its territory, as detailed in G/SPS/GEN/946. Following comprehensive quarantine measures, surveillance and eradication efforts, there was no evidence of the existence of Khapra beetles. Indonesia requested trading partners to recognize the status of Indonesia as free from this pest, and to case requiring fumigation of agricultural products, especially grains, beans and pallets, from Indonesia.

(iv) *Chile – Negligible Risk Status for BSE*

77. The representative of Chile reported that his country had been recognized by the OIE as presenting a negligible risk with respect to BSE (G/SPS/GEN/952). This was the result of intensive surveillance and control of the bovine population and the application of strict standards.

(v) *Canada – Low Pathogenic Avian Influenza*

78. The representative of Canada reported that it had regained status as free of Low Pathogenic H5N2 avian influenza and requested that trading partners remove any remaining measures due to avian influenza in light of its disease-free status (G/SPS/GEN/866).

(vi) *El Salvador – Freedom from Classical Swine Fever*

79. The representative of El Salvador reported that it was now free of classical swine fever. This had been achieved through the monitoring of all potential focal-points and the implementation of an awareness-raising programme.

(b) Information from Members on their Experiences

80. No Member provided further information under this agenda item.

(c) Information from Relevant Observer Organizations

81. The representative of the OIE recalled that the OIE International Committee had been re-named the World Global Assembly. The OIE offered official recognition of disease-freedom for four diseases. Chile, Colombia and Japan had been recently accorded official disease-free status with regard to BSE. Good progress had been made towards the recognition as free from Rinderpest of 17 OIE members and 12 non-OIE members. The OIE was working with the FAO to eradicate Rinderpest globally. The OIE was considering the possibility of granting official recognition of freedom from certain horse diseases.

IX. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from the Secretariat

(i) *WTO SPS Activities*

82. The Secretariat reported on the technical assistance activities delivered since the last SPS Committee meeting, which included a regional SPS workshop for some English-speaking African countries, held in Maseru, Lesotho; a regional workshop for some French-speaking African countries, held in Douala, Cameroon; national seminars in Angola, Lebanon, Mauritius, Oman, Saudi Arabia and Turkey; a regional trade policy course in Singapore for Asian countries; and lectures on the SPS Agreement in WTO Geneva-based courses for government officials.

83. The Secretariat also provided information on the Follow-up Session to the 4th Specialized Course on SPS, where participants returned to Geneva to present reports on the implementation of their action plans, which had the objective of implementing and strengthening compliance with the SPS Agreement at the national level.

84. The WTO will organize the 5th Specialized Course on SPS from 12 to 30 October 2009, in Geneva. The specialized courses comprised in-depth lectures on SPS issues, and "hands-on" activities. This year's specialized course will be delivered in Spanish.

85. The Secretariat further recalled that the WTO regularly offers e-training courses on the SPS Agreement. More detailed information on all upcoming SPS technical assistance activities could be found in G/SPS/GEN/956.

86. Through the Doha Global Trust Fund (GTF), funds were available to sponsor about 50 government officials from least-developed and developing countries to attend the Workshop on the Relationship Between the SPS Committee and the International Standard-setting Organizations on 26 October 2009, as well as the SPS Committee meetings in October. Invitations would be sent to developing country missions to the WTO to submit nominations. The selection of candidates would take into account the development status of the Member or Observer, the objective of participation of experts familiar with the work of Codex, IPPC and OIE, and assistance provided by WTO to attend previous SPS workshops in Geneva.

87. The representative of Saudi Arabia thanked the Secretariat for assistance in conducting a national seminar on the SPS Agreement in Riyadh on 16-17 May 2009.

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

88. The Secretariat reported that one project of the STDF had been to produce a film highlighting the importance of SPS capacity in the context of trade and economic development. The film was shown to the Committee, and copies were available for use by SPS officials in raising awareness

among their own stakeholders and general public. The film, which was available in English, French and Spanish on the same DVD, was designed to be used in its entirety or in shorter segments if more appropriate for specific audiences.

89. Preparations had begun on a number of activities to be conducted later in 2009, including a seminar jointly organized with the World Bank on the implications that climate change could have on SPS systems and capacity needs. In response to a query, the Secretariat clarified that there was a limited budget for funding speakers, but remaining funds could be used to assist the participation of a few relevant officials from developing countries.

90. Another event was scheduled to be organized jointly with the Economic Community of West African States (ECOWAS), the European Communities and the World Bank for ensuring a coordinated approach in efforts to control fruit fly in West Africa. The aim was to mobilize resources in this direction as the fruit fly was a major constraint to exports. Another workshop was planned on the use of economic analysis to inform SPS decision-making. This would be held in Geneva on 30 October 2009, immediately following the next meeting of the Committee.

91. The Secretariat also drew attention to an EC funded programme to enhance the effective participation of African countries in SPS-related international standards setting and in the SPS Committee (PAN-SPSO). Two training-of-trainers seminars would be held in July, in Nairobi, Kenya and in Bamako, Mali, in collaboration with Codex, IPPC and OIE. The objective was to train officials from the various regional economic commissions, as well as national SPS experts, so that they could provide training to others.

92. The Global Aid for Trade Review was scheduled to take place on 6-7 July 2009. A related event that same week was a workshop organized by the Enhanced Integrated Framework, and the STDF would be a part of this three-day workshop.

93. The STDF had received eleven applications for funding, for consideration by the Working Group when it met on 25 June. Most of the projects were designated for Low Income and Least Developed countries. The STDF Secretariat had also participated in a number of other events to enhance awareness on SPS issues, such as the meeting of the Codex Regional Coordination Committee for Africa, the Geneva Week event, two regional WTO/SPS workshops in Lesotho and Cameroon, and had made a presentation to the Sub-Committee for LDCs. A new STDF newsletter had been published which was made available to delegates to the Committee meeting. The STDF web page had recently been revamped. The French and Spanish versions of the web site would soon be available.

94. The representative of Paraguay reported that a national unit for food safety had been set up in its territory as a result of a workshop related to an STDF project, and that an evaluation mission had been carried out in March 2009.

95. The representative of Australia indicated that Australia intended to increase its contribution to the STDF to \$A750,000.

(b) Information from Members

(i) *EC – Update on Technical Assistance Activities*

96. The representative of the European Communities reported that 22.7 billion euros funding was available for the period of 2008-13 to assist in particular certain African, Caribbean and Pacific (ACP) countries. A programme to strengthen fisheries in ACP countries had been extended for three years. The Pesticide Initiative Programme (PIP) had also been extended for a period of five years, and would

involve private as well as official standards. A programme on animal health in African countries would be conducted with a budget of 25 million euros. The European Communities was committed to continue funding the Codex, IPPC and the OIE trust funds to enable the participation of delegates from developing countries. A significant contribution had also been made to the PAN-SPSO programme, specifically to strengthen capacities of African countries in international standard-setting activities. Programmes relating to safer food in Africa and to identify small and medium enterprises interested in exporting to the European Communities were also underway with budgetary allocations. Several bilateral programmes had also been initiated, and the European Communities remained committed to Aid for Trade.

(ii) *Argentina, Brazil, Paraguay and Uruguay – Mercosur Harmonization Project*

97. The representative of Paraguay clarified that the intervention and related document (G/SPS/GEN/940) were on behalf of Argentina, Brazil, Paraguay and Uruguay. The project, benefiting from financing by the European Communities, had the objective of analyzing the mechanisms used to implement harmonization within the European Community, and using these as a reference to identify means to further facilitate agricultural trade among the Mercosur countries as well as between Mercosur and the rest of the world. The project envisaged a number of training activities for officials of the four countries, as well as improved exchange of information and strengthening of laboratories. Although the integration of the European Communities was being considered as a model, there were different circumstances that would affect the integration in the Mercosur area.

98. The representative of the European Communities thanked Paraguay for the update, and reiterated its commitment to promote regional integration in Mercosur countries, so that EC products and those from other trading partners could enter the entire region rather than each individual market.

(iii) *Paraguay – Technical Assistance from the United States for the Strengthening of Veterinary Services*

99. The representative of Paraguay reported on a cooperation agreement between the Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture, IICA and the National Animal Quality and Health Service (SENACSA) to strengthen the veterinary services of Paraguay (G/SPS/GEN/936).

(iv) *Paraguay – OIE Evaluation of the Performance of Veterinary Services*

100. The representative of Paraguay indicated that his government had requested the OIE to undertake an evaluation of the transparency and reliability of the national veterinary services (G/SPS/GEN/937).

(c) *Information from Observers*

101. The representative of the OIE drew attention to G/SPS/GEN/943, which provided information on recent activities of the OIE including in capacity building. In particular, as indicated in Annex 2 of the document, the Performance of Veterinary Services (PVS) evaluations had been undertaken in 85 countries or territories, and reports had been provided to 72 OIE members. The General Assembly in May 2009 had adopted a resolution on the application of OIE tools to good governance, PVS follow-up, and PVS Gap analysis. The objective was to encourage all OIE members to undertake the PVS assessment.

102. The representative of the IPPC reported that the Commission on Phytosanitary Measures (CPM) had established an open-ended working group to propose a comprehensive strategy on

capacity building, and that the strategy and work plan had been provisionally approved. These would be finalized on the basis of member's comments. Regional workshops had been scheduled in seven regions to discuss draft standards, and funding had been secured for participation of countries in these regions. Activities were scheduled for later in the year to launch the establishment of a centre of phytosanitary excellence in Africa. More details on these activities was contained in G/SPS/GEN/926.

103. The representative of the ITC highlighted some of the activities detailed in G/SPS/GEN/951. The ITC bulletin on exporting seafood to the European Union was being translated into Arabic as part of a project to help the Yemeni Seafood Exporters Association (YSEA). Several activities had been undertaken as part of the related STDF 69 project. The YSEA had participated in the 2009 International Seafood Exposition, during which they had established contacts with the counterpart Vietnamese Association, and they were now developing a joint MoU. The ITC was involved in a Bangladesh quality support programme, and had organized one-week study tours to Bangladesh for five individuals in March and April 2009. A generic training package on the SPS Agreement had been customized by local trainers, to take into account the specific problems in Bangladesh. In Kyrgyzstan and Tajikistan, a project funded by the Swiss Government was drawing to an end. Two companies had been certified to ISO22000 standards in each of these two countries for the first time. A workshop was scheduled in Benin in July 2009 for stakeholders in the cashew sector, and a second follow-up workshop was scheduled for late 2009.

104. The representative of Bangladesh thanked the ITC for its support for over a decade, for its assistance to implement food safety programmes, and the study tours that it had organized to enable an understanding of SPS action plans. Bangladesh also thanked the European Communities for funding the Bangladesh quality support programme, and the WTO for assistance in organizing a national SPS seminar in August 2009.

105. The representative of IICA reported on the implementation of the IICA – STDF 180 project, whose aim was to strengthen institutional capacities in the SPS field. National agendas had been developed for 26 of the 28 countries, and countries were receiving training in institutional areas. The training concentrated on transparency, dispute settlement, and equivalence. Future plans included providing training on risk analysis, the development of information systems in order to enhance awareness in the field of SPS, and workshops on good practices. More information on these activities was available in G/SPS/GEN/950.

106. The representative of OIRSA reported on its technical assistance activities (G/SPS/GEN/948), particularly in support of agricultural production chains, and in setting up laboratories. Support had been provided to Nicaragua to establish areas free from citrus leprosis, *Ceratititis capitata*, and yellow dragon fever or Huanglongbing disease of citrus. A four-year programme had resulted in El Salvador being declared free of classical swine fever in April 2009. A broader programme sought to eradicate classical swine fever in the Central American region in the coming years. Other activities in other countries of the region were described in the report. Harmonization of the region's position in international law had been achieved by analyzing the draft amendments to the OIE Terrestrial and Aquatic Animal Health Codes, and the revised draft ISPMs. A cooperation agreement had been signed between the General Secretariat of the Central American Integration System and OIRSA secretariat with a view to improving plant and animal health conditions and facilitating trade in the region's agricultural products.

107. The representative of Kenya thanked the IPPC and STDF for assistance with the establishment to the centre of phytosanitary excellence in Africa. Kenya informed the Committee that the Better Training for Safer Food project funded by the European Communities had significantly contributed to training people on food safety analysis, and on pest risk analysis. Kenya expressed its

gratitude to DEFRA of the United Kingdom, the Netherlands Plant Protection Service, and the European Commission for their support.

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

(a) Issues Arising from the Second Review

(i) *Ad hoc Consultations*

108. The representative of Argentina drew attention to the submission regarding the proposal to develop a procedure to enhance the use of the good offices of the SPS chairperson (G/SPS/W/241). Examination of the joint Argentina-US proposal in G/SPS/W/233 with the most recent draft under discussion in the NAMA negotiations on a "horizontal" mechanism for the resolution of trade concerns made it clear that there was no conflict between the two proposals. The SPS Agreement provided for ad hoc consultations on specific trade issues, and the Rules of Procedure adopted by the SPS Committee had established the mechanism of good offices. Any actions that made the process simpler would help developing country Members in eliminating poverty and improving trade.

109. The representative of Japan supported the initiative to facilitate the use of good offices by the SPS chairperson, and suggested that waiting for an outcome of discussions on which the Committee had no bearing was futile.

110. The representative of the European Communities drew attention to the mechanisms that existed in the relevant standard-setting bodies to help resolve SPS-related trade issues. The European Communities strongly supported the NAMA horizontal approach, and, although it supported the joint Argentina-US proposal, expressed its concern that the development of a mechanism specific to the SPS Committee could undermine the work on a horizontal approach. The representative of Norway supported the position of the European Communities in this regard.

111. The representative of India agreed on the need for a meaningful process to resolve SPS-related trade issues. India, however, believed that the most effective and meaningful way to address the issue was through the wider, horizontal approach being pursued in the NAMA negotiations. India cautioned against negotiating the same issue in two different WTO fora and the possible duplication and lack of coherence which could ensue. India noted that the horizontal mechanism, once final, could be applied to all agreements, with SPS specificities discussed in the SPS Committee.

112. The representative of Chile welcomed the Argentina-US submission and noted that the NAMA negotiations should not prevent the Committee from moving ahead on good offices, and developing a procedure or guideline which would provide better guidance to the countries. The representatives of Australia, Canada, China, Costa Rica and New Zealand supported this proposal.

113. The Chairperson suggested that the Committee could agree to adopt a mechanism on a provisional basis, that would be reviewed and revised as necessary when a conclusion was reached regarding the horizontal mechanism.

114. The representative of the European Communities indicated that they had no objections to a provisional agreement to facilitate the use of the good offices of the SPS chairperson, as long as this did not impede the negotiations on the horizontal mechanism.

115. The representative of Chile expressed concern that if the mechanism was adopted on a provisional basis, agreements reached to resolve trade issues under the mechanism might also be considered only provisional. Other procedures adopted by the Committee on a provisional basis had

not been revised, as there were normally no comments or information provided by Members. Chile also noted that the dispute resolution methods within the three sisters organizations had hardly been utilized.

116. The representative of Argentina stressed the flexible nature of the proposed mechanism for good offices, and observed that many Members were looking for this procedure to be applied as soon as possible to facilitate resolution of trade problems. The Committee was functioning in a transparent manner to implement the mandate of the Uruguay Round. Its procedure could be reviewed and revised as necessary in light of a mechanism finally agreed in the NAMA negotiations. The representatives of Brazil and India supported this approach.

117. The representative of OIE clarified that its dispute resolution process had been used on three occasions by Members of the SPS Committee. The OIE mechanism was focussed on the interpretation of science and the international standards. The costs of using the OIE mechanism were not high and special and differential treatment was available for developing countries. The representative of the OIE agreed to provide a document explaining the procedure, and stressed the confidential nature of the reports on occasions where the mechanism had been used (see also G/SPS/GEN437 and GEN/731).

118. The Chairperson requested the Secretariat to prepare a revised proposal based on the joint Argentina-US proposal in G/SPS/W/233, and addressing the concerns raised by other Members in the discussions (G/SPS/W/243).

(ii) *Relationship Between the SPS Committee and Codex, IPPC and OIE*

119. The Secretariat recalled that a workshop on the relationship between the three sisters and the SPS Committee was scheduled to be held on 26 October 2009. The programme was contained in G/SPS/GEN/933). The workshop would address the procedures used by Codex, IPPC and OIE to develop international standards, and examine ways to enhance synergies between the SPS Committee and the three sisters. All Members and Observers were invited to attend the workshop. The participation of 50 officials would be facilitated through the Global Trust Fund, with preference given to candidates from LDCs. Further information regarding the possibility of seeking funding would be sent to missions shortly.

(b) Third Review (G/SPS/GEN/887/Rev.1, G/SPS/W/234, G/SPS/W/236, G/SPS/W/238, G/SPS/GEN/927, G/SPS/GEN/929)

(i) *Report on the Informal Meeting*

120. The Chairperson reported that the informal meeting on the Review of the Operation and Implementation of the SPS Agreement, held on 22 June, had discussed the proposals from China and India on issues for consideration during the Third Review and the draft report of the Third Review.

121. The Chairperson had 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. Members had been invited to identify issues for discussion as part of the Third Review and since October 2008, the Committee had held informal and formal meetings to consider the proposals by Members.

122. China had submitted specific proposals in G/SPS/W/234 regarding Annex C of the SPS Agreement. There had been a number of responses to China's proposal, in particular by Australia (G/SPS/W/238), Codex (G/SPS/GEN/927), IPPC (G/SPS/GEN/929) and OIE (G/SPS/GEN/947).

123. China had recently submitted an addendum to its original proposal to address these comments. The representative of China maintained that the Committee should initiate discussions on how to effectively implement relevant provisions of the SPS Agreement, and clarify the scope of, and some terms in, Article 8 and Annex C. Australia and other Members had stressed the need to avoid duplicating the work being done by the Codex, IPPC and OIE in the area of control, inspection and approval procedures. The representatives of Australia, Canada and Japan had also suggested that any clarification of terms should be considered on a case-by-case basis. The representative of Codex had noted that it was active in developing guidance on the conduct of audits and inspection, and had referred to ongoing work on food control and inspection, and food sampling.

124. Some Members had recalled that Article 8 had been identified in previous reviews as an issue for further work. They had noted that duplication of work could be avoided by leaving technical issues to the standard-setting bodies. A more in-depth discussion on Article 8 and Annex C based on specific examples from Members could facilitate the implementation of Article 8. It had been suggested that information sharing on implementation experiences be included as a standing agenda item of the Committee.

125. The Secretariat had offered to prepare a background document with (i) a list of relevant international standards/guidelines in the area of control, inspection and approval procedures, and (ii) a compilation of the pertinent definitions developed by the standard-setting bodies. The Secretariat had suggested that information from Members on the types of procedures they considered to fall within the scope of Annex C would be useful. In that regard, some Members had suggested that the Secretariat also compile information on the types of problems faced by Members in implementing Article 8 and Annex C, to the extent that the relevant information was available.

126. The representative of India had referred to its proposal (G/SPS/W/236) and had specifically flagged the need for the Committee to develop clarification or guidelines on: (i) cases where Members had based their SPS measures on international standards (Article 3.1); (ii) cases where Members had successfully negotiated an equivalence agreement (Article 4.2); (iii) measures to be taken by Members, including a Code of Good Practice, in cases where private standards were adopted by entities within their territories.

127. Several Members had welcomed the proposals from India as a good basis for further debate on important issues. Such discussion could enable developing country Members to better implement SPS provisions and improve market access. Other Members had raised concerns that India's proposals would entail a substantial amount of work for the Secretariat and had requested specific examples from India on implementation problems it faced and how its proposals would improve implementation. Members suggested a prioritization of the proposals from India for consideration by the Committee.

128. The Secretariat had observed that, in previous reviews, the Committee had discussed and resolved a few issues as part of the Review, but primarily had identified issues for further work. Regarding India's proposal, the Secretariat had noted that its research capacities were very limited, and there was very little information available to the Secretariat on Members' SPS measures.

129. The representative of India had indicated that its four proposals were priority issues and had suggested that studies could be outsourced. Information from India alone would not reflect the range of problems faced by Members due to the non-use of the relevant international standards. The representative of India had also noted that the Article 13 issues could be considered by the *ad hoc* group on private standards.

130. Following the timetable adopted by the Committee, the Secretariat had circulated a draft report of the Third Review on 8 May (G/SPS/W/237). The Secretariat had noted that the draft report

was based on the background document for the Third Review (G/SPS/GEN/887/Rev.1) and discussions in the Committee. The draft report also included possible recommendations on the specific issues under consideration.

131. The representative of China had requested that a third bullet point be added to paragraph 124 of the draft report to read as follows:

- *The SPS Committee should initiate discussions to identify typical steps of control, inspection and approval procedures in relation to sanitary and phytosanitary measures, as well as application recommendations and good practices, to provide guidance for implementation.*

132. The Chairperson had stressed that the goal was to complete the Third Review in 2009 and adopt the report of the Third Review at the next meeting in October. According to the agreed procedures for the Review, Members should send any additional comments relating to the issues under consideration to the Secretariat by 27 July. Based on discussions this week and any comments received, the Secretariat would prepare a revised draft by 25 September. The Committee would be able to discuss the revised draft report during another informal meeting in October, with the aim of formally adopting the report during the October meeting.

(ii) *Consideration of the Draft Report*

133. The representative of India raised a query as to the possibility of the circulation of a similar questionnaire as the private standard questionnaire to address problems with compliance with certain international standards.

134. The Chairperson recalled that the final date for submitting comments in regard to the draft report on the Third Review was 27 July 2009. The Secretariat would circulate a revised draft report by 25 September. The Chairperson requested delegates to be prepared to discuss the report at an informal meeting immediately prior to the October meeting, and to formally adopt the report during the regular October meeting.

XI. MONITORING OF THE USE OF INTERNATIONAL STANDARDS

(a) New Issues

(i) *Paraguay – Adoption of International Phytosanitary Standards*

135. The representative of Paraguay reported that his country had recently adopted a number of international phytosanitary standards (ISPM), as detailed in G/SPS/GEN/935.

(b) Issues Previously Raised

(i) *NAPPO Regional Standard Number 3: 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*

136. The representative of China observed that the draft regional standard developed by the North American Plant Protection Organization (NAPPO) on the Asian Gypsy Moth (AGM) had a tremendous potential to impact trade between China and countries in North America. The draft standard pertained to all ports in China, whereas the AGM had historically been found only in the north-eastern part of China. The occurrence of the AGM in China had been reduced significantly, and a joint survey conducted by China and the USDA in 2008 identified no occurrence of AGM in China.

China welcomed the open and transparent working procedure of the NAPPO countries, and noted that it had sent written comments on the revised draft standard at the end of February 2009. China stressed the need for scientific justification for the proposed measure, and requested that different geographic and climatic characteristics be taken into account. China invited NAPPO and its member countries to participate in a workshop in July that would highlight the preventive and control measures it had taken. China was concerned with the operability of the current draft standards, specially with regard to certification and inspection requirements, noting the impossibility of checking ships and cargo at night, as many ships departed before dawn. Moreover, as numerous non-plant related cargo such as cars and steel also had to be inspected, it would lead to an increase in costs, thus creating a barrier to trade.

137. The representative of Japan supported the statement by China, and stressed that the proposed standard could have a huge impact on international trade. Japan had submitted its comments at the end of April and requested that the revised draft standard not be adopted until its comments were duly considered. The representatives of Korea and Indonesia shared the concerns raised by China and Japan and also requested that Member's concerns be taken into account.

138. The representative of Canada underlined that the NAPPO standard was aimed at controlling a real risk to North American forests, which had been affected by AGM in the past with multi-million dollar costs for eradication. Since March 2009, six ships had been found with AGM egg-masses on board. NAPPO members were aware of the trade impact and the costs associated with control measures, and it was in their own 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. Comments of all stakeholders would be taken into account when the standard is finalized in August 2009. Once the regional standard had been adopted, Canada, the United States and Mexico would develop a coordinated approach that would consider direct impacts of the standard on trade.

139. 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 regional standard was based on a risk assessment which was available upon request. The United States had been working diligently along with Mexico and Canada to solicit scientific and technical inputs from concerned countries. NAPPO experts travelled to China, Japan and Korea in February 2009 to consult directly with regulatory officials, leading to constructive inputs. In June 2009, the NAPPO forestry panel reviewed the comments received and a revised draft of the standard would be made available in August 2009. The United States assured its trading partners that the phytosanitary measures applied would be consistent with WTO obligations.

140. The representative of Mexico corroborated the statements by the United States and Canada. Mexico looked forward to continuing to work with concerned trading partners to mitigate any potential risk of introduction of AGM into North America.

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

141. The representative of Brazil raised concerns regarding some provisions of the Constitutive Agreement of the Asia Pacific Plant Protection Commission (APPPC) that restricted the import of Havea plants from outside the region. The provisions requested APPPC contracting parties to prohibit by law the importation of Havea plants from countries outside the region. Brazil argued that this measure which affected many countries in South and Central America, lacked scientific justification and was not based on risk analysis. Brazil had been exchanging technical and scientific information with APPPC countries since 1999. In 1995, the FAO had recommended that the APPPC follow the IPPC standard on the matter and comply with the SPS Agreement. However, the clause had not been

revised yet, and Brazil remained concerned about APPPC member legislation on South American Leaf Blight (SALB). The representative of Paraguay supported Brazil's concern and viewed that the measure was unjustified.

142. 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. Japan appreciated efforts to harmonize the text of the APPPC with the SPS Agreement, and hoped a satisfactory regional standard in this regard would soon be agreed.

143. The representative of Indonesia explained that the measure under consideration was to protect the rubber industry of Indonesia from the SALB. Indonesia stated that a specific analysis was undertaken each time a decision to import was made in order to prevent trade disputes. Indonesia expressed its commitment to the SPS Agreement in this regard.

144. The representative of the IPPC stated that there were two issues that needed to be addressed in this particular case – whether the clause pertaining to *Havea* should be in the convention at all and whether the draft pest risk analysis (PRA) was technically sound. The standard did not prohibit imports of all plants and plant products from Brazil. The FAO had provided technical support to the region in order to complete a PRA on which a regional standard could be based.

145. The representative of Brazil noted that there were serious barriers to their export of plants and plant products related to SALB. Brazil had collaborated in the FAO study.

146. The representative from New Zealand clarified that as a member of APPPC, New Zealand's measures with regard to the import of plant material were all based on the outcome of risk analysis.

(c) Adoption of Annual Report (G/SPS/W/239 and Corr.1)

147. The representative of Japan requested some corrections in the draft report, and recalled that the objective of the procedure was to monitor the use of existing international standards or identify the need for standards or guidelines. He questioned whether it was appropriate to use this mechanism to question standards that were developed by regional bodies, rather than by Codex, IPPC or OIE.

148. The representatives of Chile and Peru suggested that it would be useful to have a dialogue between Members to reach agreement on this issue.

149. The Secretariat proposed to maintain the annual report as currently drafted, as it reflected the discussions that had been held under this agenda item in the past years. A revision of the draft report would be circulated shortly to include the discussions and concerns raised at this meeting. Members were invited to adopt the report on an ad referendum basis, subject to no objections being submitted before 27 July.

150. The Committee adopted the annual report on monitoring the use of international standards, as revised (G/SPS/51).

XII. CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS

(a) Report on Chairman's Consultations

151. The former Chairperson reported on the informal consultations which he had held with the ad hoc group on private standards on Monday, 21 June. The representatives of Codex and the OIE had also attended the meeting.

152. The main focus of the meeting had been on whether the descriptive report provided a sufficient basis for the drafting of an analytical report. The replies to the questionnaire regarding specific examples of products whose trade was affected by private standards had constituted the first phase of a three-phase endeavour. The draft descriptive report had been prepared by the Secretariat and circulated to Members on 18 May 2009 as the second phase of the endeavour (G/SPS/GEN/932). The third phase involved the preparation of an analytical report, which was supposed to contain proposals for concrete actions for consideration by the Committee.

153. There had been significant discussion on whether the information contained in the replies to the questionnaire was enough for the Secretariat to begin drafting the analytical report on private standards to be considered by the Committee during the October meeting. Concerns had been raised on the quality of information in some replies, and whether a report based on such replies might lead to false conclusions. While some replies were indicative of problems faced by exporters in the responding Member and identified private standards affecting the product clearly, other replies were incomplete or in need of verification. Also, some replies had identified private standards that were not related to SPS requirements, such as on animal welfare.

154. In addition, the representative of OIE had indicated that the OIE had established an ad hoc working group on private standards. This group involved representatives of different backgrounds, including from the private sector. The OIE working group was expected to finalize its report in November 2009, and this work could be of importance to the deliberations of the SPS Committee.

155. The representative of Codex had noted that a report prepared by consultants providing an analysis of the impact of private standards on food safety issues had been completed and would be discussed by the Codex Alimentarius Commission at their meeting of 29 June to 4 July 2009.

156. Members involved in the consultations had agreed that the outcome of the work by Codex and OIE should be taken into consideration in the finalization of the analytical report. It had also been agreed that the analytical report would pertain only to SPS-related private standards. The October 2009 workshop on the relationship between the three sisters and the SPS Committee would also provide an opportunity to further examine the work being done on this issue by the Codex, IPPC and OIE.

157. In light of the quality of information in some replies, it had been suggested that Members be invited to provide more information or verify their previous responses. An e-mail exchange could be established for this purpose.

158. A few delegates had noted that they would welcome guidance on the implementation of Article 13 of the SPS Agreement, and some had suggested that recommendations contained in the analytical report would de facto provide some guidance.

159. A significant element of the draft analytical report would be the identification of possible practical actions by the Committee and/or Members to address the problems identified by Members. Such actions could include, for example, recommendations for transparency regarding private standards, encourage greater harmonization among private standards, periodic meetings with the private standard-setting bodies, and/or a monitoring role for the SPS Committee.

160. The Secretariat had drawn attention to the publication of a report on the impact of private standards in Africa from the UK International Institute for Environment and Development, the Department for International Development (DFID) and the National Resources Institute (NRI), which contained relevant inputs to the present discussion.

161. On the basis of these consultations, it was suggested that the Secretariat begin preparing the draft analytical report according to the agreed timetable. Any Member wishing to provide further inputs or comments on responses to the questionnaire or on the descriptive report (G/SPS/GEN/932), could do so by 27 July 2009. Comments or suggestions with respect to the analytical report should be provided to the Secretariat no later than 1 September 2009. Following consultations with the ad hoc group, the Secretariat would circulate the draft analytical report by 15 October 2009, for consideration during the October Committee meeting.

162. Following his report on the informal consultations, the former Chairperson urged Members not to approach the issue as a North-South debate, as the objective was to achieve mutually agreed and practical proposals to resolve specific problems.

163. The representative of Egypt stressed the importance of involving private standard organizations in the discussions of the Committee, as well as the importance of provisions on transparency.

164. The representative of Brazil observed that the working group had been established in 2007, and expressed apprehensions that a lot of time had been wasted without a conclusive determination on the issue. Brazil urged Members to clearly identify actions in order to achieve real benefits. The representative of Cuba also expressed concern at the lack of progress, and urged Members of the ad hoc group and the Secretariat to work together to arrive at a conclusion.

165. The representative of Pakistan drew attention to the need to take into account the work of Codex, IPPC and OIE. She noted that harmonization of private standards was supported by all Members.

166. The representative of Mexico underlined that work on this issue should proceed on an ad hoc basis, and suggested that one way of ensuring achievement of the objectives was to hold informal consultations between Committee meetings.

167. The representative of Uruguay supported the comments of Brazil and Egypt, and urged that the situation be improved in this regard. Harmonization and transparency were significant points, and some headway was being made. The focus should now shift from identifying the problems faced to consideration of solutions. The representative of Argentina pointed out that the most important objective would be to achieve time frames for actions, but no conclusions could be reached until the analytical report was circulated.

168. The representative of Mauritania underlined the importance of the discussions on private standards and the particular importance this issue had for Africa.

169. The OIE reported that it was working on two specific areas with respect to private standards – on animal welfare and health. The former was out of the scope of this Committee, and the OIE lacked sufficient concrete examples for the latter. A questionnaire would be sent to OIE members to seek information in this regard.

170. The Chairperson reiterated the three phase process agreed by the Committee. Members were encouraged to supply any corrections or additions with respect to the specific examples they had provided for the descriptive report by 27 July. Suggestions and inputs for the analytical report should be provided by 1 September, via email to the Secretariat. The Chairperson indicated that she would be available for consultations should Members so desire.

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

171. The representative of the Codex drew attention to G/SPS/GEN/928, which contained information on Codex activities. Codex now had 180 members, with Tajikistan and Djibouti as the most recent new Members.

172. The representative of the IPPC noted that its standard-setting programme was outlined in G/SPS/GEN/926. Various stages of the standard-setting process involved input from experts, and phytosanitary awareness was required to ensure that all members submitted appropriate comments on draft standards of relevance to them.

173. The representative of the OIE indicated that G/SPS/GEN/942 provided information on recent activities, including with regard to avian influenza. Dr Carlos Correa Messuti of Uruguay had been elected as the new president of the World Assembly of Delegates in May. The OIE was now working on its Fifth Strategic Plan, for 2011-2015, which was to be finalized within two months.

XIV. REQUESTS FOR OBSERVER STATUS

174. 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.

175. 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 Cooperation Council Standardization Organization (GSO).

176. The Secretariat reminded the Committee of the information provided earlier on the PAN SPSO project, which was being implemented through the regional economic bodies of Africa. As part of this project, the secretariats of these regional commissions were likely to request observer status in the SPS Committee. It would be very useful if the staff of the regional secretariats were familiar with the method of functioning and work of the SPS Committee; knowledge that was most effectively gained by participating in its meetings. This, in turn, would enable the regional secretariats to provide better training to officials in individual countries, to enhance the effectiveness of the participation of African countries in the work of the SPS Committee and of Codex, IPPC and OIE.

177. The Secretariat has reported that it had agreed to participate as part of an inter agency liaison group on alien invasive species not covered by IPPC standards, organized by the secretariat of the CBD. Given that there were various issues of common interest and work between the SPS Committee and the CBD, the Secretariat observed that it could be beneficial if the CBD secretariat could participate in meetings of the Committee to facilitate communication and coordination.

XV. CALENDAR OF MEETINGS IN 2010

178. The Committee agreed on the tentative dates for its meetings in 2010 (G/SPS/W/240).

XVI. OTHER BUSINESS

(i) *Brazil – Exports of Cooked and Frozen Meat to Mexico (STC 263)*

179. The representative of Brazil provided information on progress made regarding the export of cooked and frozen meat to Mexico. A bilateral working group on technical and agricultural

cooperation between Brazil and Mexico had met, and it was agreed that Mexico would send an inspection mission between 15-20 October 2009.

(ii) *Mexico – Draft Revision of the Codex Code of Ethics*

180. The representative of Mexico drew attention to the most recent draft revision of the Code of Ethics under consideration by the Codex Alimentarius Commission. Mexico was concerned that the current draft text was seriously inconsistent with the rights and obligations of Members under the SPS Agreement, as it lacked scientific and legal basis. Members should not attempt to modify the rights and obligations under WTO Agreements through the work of the standard-setting organizations, to the prejudice of both developed and developing country Members. The representative of Mexico urged delegates to read the draft Codex document, consider its possible implications, and take appropriate actions.

181. The representative of Chile noted that the Codex Code of Ethics had long been in existence, and the current discussions concerned its possible revision.

XVII. DATE AND AGENDA OF NEXT MEETING

182. The Chairperson recalled that the next meeting of the Committee was tentatively scheduled for 28-29 October, with informal meetings on the Third Review and on special and differential treatment on 27 October.

183. The workshop on the relationship between the SPS Committee and Codex, IPPC and OIE would be held on Monday, 26 October, and the STDF workshop on the use of economic analysis to enhance SPS decisions would take place on Friday, 30 October 2009.

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

1. Proposed agenda
2. Activities of Members
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) Report on workshop on relationship between SPS Committee, Codex, IPPC and OIE
 - (ii) Use of ad hoc consultations
 - (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
 11. Concerns with private and commercial standards
 - (a) Report on Chair's consultations
 - (b) Consideration of analytical report
 12. Transitional Review under Paragraph 18 of the Protocol of Accession of the People's Republic of China
 13. Matters of interest arising from the work of observer organizations
 14. Observers – Request for observer status
 15. Chairperson's annual report to the Council for Trade in Goods
 16. Other business
 17. Date and agenda of next meeting
185. Members were asked to take note of the following deadlines:
- (a) For submitting comments on the draft report for the Third Review: **Monday, 27 July;**
 - (b) For submitting comments on the descriptive report on private standards (G/SPS/GEN/932 and any corrections to responses to the questionnaire on private standards (G/SPS/W/232): **Monday, 27 July;**
 - (c) For submitting comments or suggestions regarding the analytical report and recommendations to be prepared on the issue of private standards: **Tuesday, 1 September;**
 - (d) For identifying new issues for consideration under the monitoring procedure, AND for requesting that items be put on the agenda: **Thursday, 15 October;**
 - (e) For the distribution of the airgram: **Friday, 16 October 2009**
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