
Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 29-30 JUNE 2010

Note by the Secretariat¹

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I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its forty-eighth regular meeting on 29-30 June 2010. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3572).

II. ELECTION OF CHAIRPERSON

2. The Chairperson 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. In light of those consultations, the Council for Trade in Goods had approved Mr. Flavio Damico of Brazil as chairperson of the SPS Committee for 2010/2011. The Committee endorsed the selection of Mr. Damico by acclamation, and voiced its appreciation to Ms Chavez for her considerable efforts and accomplishments as chairperson during the past year.

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

4. In assuming the role of chairperson, Mr. Damico expressed his appreciation for the confidence shown by Members in giving him this responsibility, and his interest to continue to support the work of the Committee.

III. INFORMATION ON RELEVANT ACTIVITIES

(a) Information from Members

5. The representative of Argentina announced that a new analysis of risk factors associated with BSE was now available in Spanish, and was being translated into English. The document updated the risk assessment on the distribution of the disease and the risk of exposure to the disease. Argentina noted that it was in a negligible risk category for BSE according to OIE standards. The document was available from the national enquiry point and a GEN document including a direct link would soon be submitted. In the meantime a number of room copies had been made available.

6. The representative of the United States announced that the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA) was in the process of implementing a new public health information management tool. The Public Health Information Service (PHIS) was designed to support a data-driven approach to FSIS's inspection system. PHIS would strengthen the ability to detect and respond to food borne hazards by replacing many of FSIS' existing IT systems and enhancing the exchange of data between agencies throughout the world. PHIS would allow USDA officials to electronically review and exchange the information required on official health certificates with other regulatory authorities, and to provide a secure and timely advance notice of foreign shipments certified by a foreign government for export to the United States. FSIS planned to implement PHIS in October 2010 and would provide more information on a country-specific basis as the implementation of PHIS drew nearer. More information about PHIS was available at <http://www.fsis.usda.gov>, and from USDA Foreign Agricultural Service officers around the world. While some of the information generated by the PHIS would be publicly available, other information would be considered confidential.

7. The representative of Kenya provided information on two initiatives detailed in G/SPS/GEN/1019. The first initiative, with support from the World Summit on Sustainable Development (WSSD) and the Food and Agriculture Organization (FAO), developed an early

warning system to detect the occurrence of pests of concern to countries that imported Kenyan horticultural produce, and to promote information sharing among stakeholders in public and private sectors. A pilot group of scouts and inspectors were trained on quarantine pest identification, detection and reporting techniques. An e-pest surveillance software, server and GPS enabled tools were procured to facilitate that activity. The second initiative was the development of e-certification for horticultural produce, launched in August 2009 by the Kenya Plant Health Inspectorate Service, in collaboration with The Netherlands Plant Protection System (NPPS). A process model and an information model for management of export certification had been designed and were due for pre-testing in the next three months. Initially, e-certification would run in parallel with paper certification and would be piloted with roses.

8. The representative of Venezuela reported that Venezuela had developed and strengthened programs that directly affected producers, such as free vaccinations against FMD, rabies and brucellosis for small- and medium-sized producers. Significant progress had been made in vaccination coverage, producer participation, and epidemiological vigilance. In 2009, the Venezuela National Oil Company had provided funds for the implementation of the plan, and a project to strengthen policies and strategies to prevent, control and eradicate FMD had been created. This had considerably diminished FMD outbreaks in just one year. The vaccination program was in its initial cycle, with the goal of vaccinating 3,800,000 cattle, sheep and goats. The representative of Venezuela also reported on the integrated management of coffee cultivation for the prevention and control of the coffee berry borer. Goals for this year were to deal with almost 13,000 hectares of crops in coffee-growing areas. Technical support was providing transportation to difficult-to-reach areas and constructing ten laboratories to produce bio-fertilizers. The representative of Venezuela also indicated that a national network of seven phytosanitary laboratories, five for the quantification of aflatoxins and a national network of 13 diagnostic laboratories for animal diseases had been created. Those networks increased phytosanitary diagnoses by 13 per cent and animal disease diagnoses by 15 per cent in comparison to previous years.

9. The representative of Japan reported that on 20 April 2010, the first case of foot and mouth disease (FMD) in ten years was confirmed in Miyazaki Prefecture, in the southern part of Japan. Since then, nearly 300 outbreaks had been identified. Japan had formed a cross-ministry taskforce in order to control the outbreak and apply control measures based on the OIE Terrestrial Animal Health Code. Due to continuing outbreaks in a part of Miyazaki Prefecture, Japan had initiated emergency vaccinations on 22 May 2010 of animals within a 10 km radius of infected farms and was currently killing non-vaccinated animals. Japan continued a close monitoring and thorough disinfection and was committed to working with its trading partners and providing relevant information through the OIE disease notification system. The issuance of all Export Quarantine Certificates for cloven-hoofed animals and derived products had been suspended since the day of the first outbreak. The representative of Japan thanked those Members that had resumed imports, and offered to provide further information to Members that maintained trade measures, especially for milk products and salted hide and skin, so that trade could resume as soon as possible.

10. In addition to the information provided in G/SPS/GEN/1023, the representative of Paraguay reported that the annual programme of Cucurbitaceae exports to Argentina had begun. Also, protected area status for black sigatoka had been established in banana producing regions, and Paraguay had established a phytosanitary alert system for Huanglongbing disease. He thanked the USDA Animal and Plant Health Inspection Service (APHIS) and IICA for their assistance in fruit fly vigilance for a mango export pilot project. Paraguay had adopted ISPM 32 regarding the categorization of commodities according to their pest risk.

(b) Information from Observer Organizations

11. The representative of Codex indicated that the latest Codex activities were summarized in G/SPS/GEN/1022. The 26th session of the Codex Committee on General Principles had forwarded to the Commission for final adoption a Revised *Code of ethics for international trade in food*. The 42nd session of the Codex Committee on Pesticide Residues (CCPR) had proposed the adoption of 217 new and revised MRLs in specific commodities, and proposed the adoption of 52 draft MRLs. The CCPR had identified 95 existing Codex MRLs for revocation and had decided to discontinue work on 22 MRLs. The CCPR was one of the fastest-working Codex committees, with some standards established in less than one year. After reviewing the MRLs for persistent organic pollutants (POPs) under the Stockholm Convention, the CCPR had decided to maintain the current standards for the time being.

12. The representative of the OIE noted that the latest OIE activities were described in G/SPS/GEN/1024. At its 78th General Session on 23-28 May 2010, the OIE had re-elected Dr. Vallat as Director-General for a third term, through 2015. Dr. Vallat was committed to continue to work closely with OIE members and implement the 5th Strategic Plan through 2015. Efforts to improve veterinary legislation especially in developing countries would be discussed at a December meeting in Tunisia. Discussion of joint Codex and OIE standards was ongoing, as were discussions about agreements with FAO and WHO to further harmonize international standards. A resolution regarding private standards, which was adopted at the General Session, was contained in the Annex of G/SPS/GEN/1024. Several chapters of the Terrestrial Animal Health Code had been updated, including compartmentalization in FMD chapters. Future work would elaborate on detailed guidance and would require the support of OIE members. Members who had received official OIE recognition for their sanitary status for various diseases were identified in the report of the General Session and on the OIE website.

13. The representative of the International Plant Protection Convention (IPPC) Secretariat reported on activities between March and June 2010 (G/SPS/GEN/1028). Mongolia had become a new contracting party to the IPPC on 12 May 2010. The report included: (i) information about the Fifth Session of the Commission on Phytosanitary Measures (CPM-5) and the new standards adopted; (ii) the first IPPC capacity development strategy and further work on the capacity plan including the expert working group scheduled for October 2010; (iii) the first request under the IPPC dispute settlement system; and (iv) implementation Review and Support System (IRSS) work to take stock of activities, and mobilize new resources. The financial sustainability of the IPPC Secretariat was a matter of urgency and would be a primary topic during the annual meeting of the CPM informal Working Group on Strategic Planning and Technical Assistance in October 2010. The IPPC Secretariat currently did not have funding to continue staffing the IPPC Help Desk post past 2010, and asked Members to mobilize any possible resources to resolve the issue. Finally, the representative of the IPPC noted that in G/SPS/GEN/1028, Section VI(c), the reference should be to East Africa, not West Africa.

14. The Chairperson welcomed the new observers participating in the Committee meeting for the first time and invited them to take the floor. The representative of the Economic Community of West African States (ECOWAS) provided a brief introduction to her organization. The ECOWAS Parliament had recently passed into law legislation that harmonized standards among its fifteen member states. ECOWAS was also developing materials to facilitate the understanding of SPS issues at the grassroots level.

IV. SPECIFIC TRADE CONCERNS

(a) New Issues

(i) *China's SPS Notification Practices – Concerns of the European Union*

15. The representative of the European Union expressed concerns over China's SPS notification practices. On 1 June 2009, China's new Food Safety Law had entered into force. This new legislation involved many new national food safety measures, creating a framework food safety legislation with the objective of assuring high levels of health protection. While the European Union welcomed the objectives of the legislation, it was concerned that the rapid development of these measures meant that trading partners were not informed of the new legislation before adoption or did not have adequate time to comment prior to enforcement. Trading partners had been notified only after the adoption of the new Food Safety Law even though the legislation included, for example, new measures on dairy products, additives, contaminants, veterinary medicines, and commodities such as honey. China had submitted almost 100 SPS notifications on food additives in a few days, providing only a 15 days deadline for comments. None of the notifications included references to the original text. China had not agreed to requests to extend the period for comments, even to the normally recommended 60-day period, despite the time required for reviewing such a large volume of technical standards. The European Union requested that China clarify its procedure and indicate how it would ensure its SPS notification practices gave reasonable time frames for trading partners to comment and for China to take these comments into serious consideration.

16. The representative of China explained that the notification of a large number of national standards in a short time period was the result of the adoption of a new Food Safety Law. Codex and other international standards had been fully considered in the development of the new measures, and as a result China believed that trade effects should be minimal. Members were welcomed to continue to make comments, and China would take into account the comments received even after the end of the comment period before the publication of standards and in future modifications. China was starting to include hyperlinks in the notifications, as recommended, but in all cases the Enquiry Point could provide full texts upon request. China would inform its standard-setting agencies about the EU comments for future improvements in the process.

(ii) *Canada's Registration Requirement for Pet Food Export Enterprises in China – Concerns of China*

17. The representative of China referred to Canada's registration requirement for pet food export enterprises in China. In April 2008, China had sent a letter to Canada inviting a field inspection of Chinese pet food companies who intended to export to Canada. After receiving no reply, in April 2009 China sent a second letter requesting facilitation of the inspection process. Canada had replied to that letter stating that only those companies that had already corresponded with Canadian importers could be inspected due to limited financial resources. Although China had indicated that it was willing to bear the costs, Canada had still refused to accept China's request. China invited Canada to reconsider its request.

18. The representative of Canada reported that industries in both countries were interested in pet food exports, and that a new inspection plan was initiated earlier in the month. A list of 60 facilities were on the original list, and Canada had elected to start with 19 facilities that already held valid import permits. Canada was prepared to send several teams to simultaneously visit different facilities, and would continue its technical dialogue with China.

(iii) *Colombia's Import Restrictions on Brazilian Beef – Concerns of Brazil*

19. The representative of Brazil expressed concerns regarding the lack of reaction by Colombian authorities to a Brazilian proposal for a sanitary certificate for the export of beef to Colombia. In 2006, Brazil had presented a certificate to export meat products to Colombia, however, in February 2007 Colombia had indicated that this proposal did not fulfil its requirements. In 2007, Brazil had presented a new version of the certificate but despite various diplomatic contacts and bilateral meetings, Brazil still had not received a response from Colombia regarding its risk analysis.

20. The representative of Colombia reported that in November 2006, the Brazilian embassy in Colombia had requested a template for the official export certification of edible beef products. In November 2006, the Colombian Agricultural Institute (ICA) had requested the Brazilian Ministry of Agriculture (MAPA) to provide a clarification regarding which products would be covered by the proposed health certificate. Colombia had not yet received an answer to this communication. In February 2008, ICA had begun the process of risk analysis for the importation of bovine and buffalo products by sending a questionnaire to MAPA, and in June 2008 had undertaken a verification visit regarding MAPA measures for bovine disease control. ICA had sent the report of the visit to Brazil in November 2008, but had not received any response to the report. Such a response was necessary in order to continue the process solicited by Brazil.

(iv) *US 2009 Food Safety Enhancement Act – Concerns of China*

21. The representative of China expressed concerns related to the US 2009 Food Safety Enhancement Act. The US Congress had proposed several new measures, including required registration for export food companies, follow up inspections, compulsory certification for high risk imported products and the expansion of FDA authority. China asked the United States to notify these new measures and to provide the opportunity for Members to make comments before the adoption of the legislation.

22. The representative of India expressed the need to understand the proposed legislation. Indian industry had questions regarding the duration of the registration process, whether it was modelled on international standards, whether foreign government and sector associations would be notified before or after a food facility was inspected, and how the fast-track process for registration would work. Once it had a better understanding of this process, India would seek further clarification.

23. The representative of the United States clarified that the US Congress was in the process of considering this legislation and it was not clear when the bill would become law, if at all. Accordingly, because the Food Safety Enhancement Act was not a SPS measure, the United States did not believe it was appropriate to comment on it at this time. However, if this bill or any other food safety legislation did become law, the United States would alert its trading partners, and would notify the WTO accordingly.

(v) *EC Regulation No. 1099/2009 – Concerns of India*

24. The representative of India raised concerns about EC Regulation No. 1099/2009 dated 24 September 2009 regarding the humane treatment of animals at the time of slaughter, which was to enter into force on 1 January 2013. Under Article 12 of the regulation, the import of meat from third countries must be supplemented by a health certificate indicating that requirements at least equivalent to those established in Chapters II and III of the regulation had been met. According to India, this specific regulation had not been notified by the European Union despite being a trade-restricting measure. India sought clarification on the justification for this regulation and for animal welfare requirements that may not fall under the SPS Agreement. India also inquired about: (i) how equivalence may be assessed, including details of the certification process; and (ii) how EU experts

would ensure that animals were slaughtered in humane conditions and received clearance from the European Union.

25. The representative of China supported the concerns raised by India and noted that it would continue to follow the issue.

26. The representative of the European Union reported that the regulation would enter into force on 1 January 2013 and was based on two publicly available scientific opinions which had been forwarded to the Indian authorities. The European Union clarified that regulations regarding animal welfare conditions at the time of stunning and slaughter had been in place since 1993, and that regulation No. 1099/2009 re-addressed the issues, but did not impose new requirements. The European Union believed that the measures were not more restrictive than necessary and that the regulation recognized the principle of equivalence. The system had proved to be effective over a 15 years time period and other countries had developed similar legislation, based on the OIE Code and consistent with international standards. Nevertheless, the European Union would ensure continued cooperation among experts to address any concerns before the legislation entered into force in 2013.

27. The representative of the OIE clarified that if the measures were to control animal health, including ante- and post-mortem inspections, then they were relevant to SPS. Although animal welfare was not a SPS-related issue, OIE members had adopted a resolution in 2004 for OIE to undertake further work on animal welfare issues, and OIE members had the opportunity to comment on those standards, particularly through the Animal Welfare Working Group.

(vi) US Risk Analysis for the Entry of Queen Bees – Concerns of Argentina

28. The representative of Argentina raised concerns about US risk analysis for the importation of queen bees from Argentina into the North American market. Argentina had conducted research and provided information to the US Animal and Plant Health Inspection Service (APHIS). There had been a constructive exchange and Argentina hoped to soon report the satisfactory conclusion of the risk assessment.

29. The representative of the United States reported that due to the importance of beekeeping in modern US agriculture, there was a high level of protection against foreign bee pests and diseases. On 7 June 2010, USDA had started a national bee pest and disease survey to determine the prevalence of parasites and disease-causing micro-organisms that could contribute to the observed decline of American honey bee colonies. Two laws, the Honey Bee Act and the Plant Protection Act, direct the USDA to enforce sanitary regulations to protect honey bee colonies, and the United States had published science-based risk assessment procedures for approving imports of bees. With respect to Argentina's request for a risk assessment, the United States had provided the findings of an assessment to the Argentine authorities in 2004, identifying three pests of concern in Argentine bees: Africanized honey bee, *Braula schmitzi* (bee louse), and *Varroa destructor* (mite). In September 2009, the United States had informed Argentina that the risk assessment was being revised to reflect changes in bee health and risks worldwide. Information collected from the national survey launched in June 2010 would inform further risk assessment of Argentine queen bees.

(vii) Turkey's Restrictions on Products Derived from Biotechnology – Concerns of the United States

30. The representative of the United States raised concerns about the development of Turkey's regulatory system for agricultural biotechnology (G/SPS/N/TUR/8). In the eight months since Turkey had begun implementing new biotech measures, Turkey had announced both a Biosafety Law, and several implementation measures. However, only two of those implementation measures had been

notified to the WTO and one of those was notified as "effective immediately" with no comment period. The United States was concerned that compliance requirements were not shared publicly, and that regulations prohibiting the presence of biotechnology in products for infants and children did not refer to a risk assessment, hence leading to a lack of predictability in the approval process. The United States asked for clarification on the status of current approvals, the approvals process, and how the process would change after the Biosafety Law was enforced on 26 September 2010.

31. The representative of Canada stated that it would continue to monitor the implementation of Turkey's Biosafety Law and its impacts on Canadian exports of genetically and non-genetically modified commodities. Canada hoped that the new law would take into account scientific assessments and would not be more trade restrictive than necessary.

32. The representative of Argentina supported the concerns raised by the United States, noting that the Turkish standards were not consistent with the SPS Agreement or Codex standards, and were unfavourable to modern biotechnology products. Argentina expressed deep concern about the measures and hoped that they would be revised based on the SPS Agreement and Codex standards.

33. The representative of Turkey stated that Turkey had notified in 2009 and 2010 its legislation related to biosafety issues whose objectives were to: (i) establish and implement a biosafety system for human, animal and plant health; (ii) ensure the conservation of the environment and biodiversity and their sustainability; and (iii) establish science-based regulation and monitoring principles and procedures. Previous Turkish legislations and the Cartagena Protocol had been used as reference documents, as well as EU accession documents. Turkey had endeavoured to address the concerns raised by the United States, Canada and Argentina regarding its notifications, including issues caused by mistranslation. Turkey indicated that it would draft and notify secondary regulations to the WTO, to clarify misunderstandings.

(viii) Senegal's Import Restriction on Poultry Meat – Concerns of Brazil

34. The representative of Brazil raised concerns regarding Senegal's import restriction on poultry meat in place since 2005. Brazil, while recognizing Senegal's right to protect itself against diseases, recalled the OIE guideline that a Member could establish measures if avian influenza was detected. Brazil stated that its products fulfilled all international requirements and that avian influenza had not been reported in its territory. Brazil had provided Senegal with all the information needed for a risk analysis, and had asked in March and May 2010 for scientific justification of Senegal's import restrictions. Brazil concluded that it was looking forward to receiving technical feedback to allow the export of Brazilian poultry meat to Senegal.

35. The representative of Senegal stated that the Senegalese authorities had only received Brazil's request a few days prior to the Committee meeting, and that a reply would be provided to Brazil as soon as possible.

36. The representative of ECOWAS reported that at a meeting in Cape Verde, ECOWAS members had held high level discussions on the issue. ECOWAS hoped that the issue would be resolved amicably.

(b) Issues Previously Raised

(i) Japan's Pesticide Maximum Residue Levels (MRL) Enforcement System (STC 267) – Concerns of China

37. The representative of China reiterated its concerns regarding Japan's MRLs and their enforcement system. China welcomed the SPS cooperation arrangement recently signed between

Japan and China and the first round of technical consultations which had taken place under the new arrangement. Nevertheless, China wished to reiterate its concerns regarding the temporary standards under Japan's Positive List scheme, the lack of scientific basis for those standards, and a lagging review process.

38. The representative of Japan responded that its Positive List system had been established in 2006 after consulting existing MRLs from Codex, Australia, Canada, New Zealand, the European Union and the United States, based on a scientific evaluation. Japan stated that its standard-setting process was in line with the SPS Agreement, and that it had notified its draft MRLs to the WTO, providing Members an opportunity to submit comments.

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

39. The representative of the European Union reiterated the concerns regarding India's restrictions due to avian influenza and the lack of notification by India on the issue. India had announced via its website that it would review its import conditions related to avian influenza every six months however, that information had not been notified to the WTO. The European Union recalled that on several occasions India had been requested to provide scientific justification for imposing import restrictions above the OIE standard on avian influenza. During its May 2010 General Assembly, the OIE had confirmed that its avian influenza standard was well supported by scientific evidence, and it had also been clarified that there was no risk related to trade in fresh meat with regard to low pathogenic avian influenza. The European Union also requested India to recognize the regionalisation principle of the SPS Agreement, which was strictly applied in the European Union when an outbreak of avian influenza occurred. The European Union requested that India fulfil its transparency obligations, and either bring import requirements fully in line with international standards, or share the scientific evidence invoked to justify its measures.

40. The United States supported the concerns raised by the European Union, stating that India stood alone with respect to the scope of its avian influenza-related bans, which were not in line with OIE standards. The United States expressed disappointment that these bans continued as emergency measures, thereby prohibiting the imports of live pigs and a wide range of avian species and avian products without a risk assessment. The United States noted that, on numerous occasions, India had not provided a timely notification of its avian influenza-related import restrictions. For example the last notification was on 31 March 2009, extending the ban for six months. However, the ban continued to be applied despite the lack of a new notification. The United States and the European Union had repeatedly asked India to provide its risk assessments to support the imposition of import requirements beyond OIE recommendations. The United States urged India to provide its risk assessment and modify its measures to address the concerns repeatedly expressed by several Members.

41. The representative of India replied that the situation had remained unchanged although, based on changed conditions, India had allowed some restrictions to be temporarily lifted. The Indian Department of Animal Husbandry had reviewed its sanitary conditions and removed avian influenza-related restrictions for the import of pork products (raw and processed pork). India reported that presently there was no ban on the import of pork products (raw and processed pork) from avian influenza-positive countries. However, the import of live pigs continued to be prohibited from avian influenza-positive countries. Furthermore, the import of processed poultry and poultry meat products were allowed from avian influenza-positive countries subject to conformity assessment for both low and high pathogenic avian influenza (LPAI and HPAI). India cited scientific evidence that LPAI had the potential to mutate into HPAI, particularly in wild aquatic birds.

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

42. The representative of China reiterated that Section 743 of the US Agriculture Appropriations Act (AAA) of 2010 set discriminatory requirements on China's processed poultry products. China had previously raised this concern at the October 2009 and March 2010 meetings. At the March meeting, the United States had reported that additional information was being sought regarding China's new Food Safety Law. China stated that it had in fact finalized a recognition of equivalence with the United States at the end of 2007, and therefore Chinese cooked poultry products were able to meet United States' SPS requirements before the adoption and implementation of the new Food Safety Law. China argued that the Food Safety Law could not be used to impede the ongoing consultation process, and urged again the United States to eliminate discriminatory restrictions on Chinese cooked poultry products.

43. The representative of the United States noted that the United States did not maintain a funding restriction on USDA's ability to move forward with rulemaking related to China's equivalence for poultry. USDA had reached out to China several times in recent months to move forward with China's equivalence application, specifically asking for an updated application and more information regarding its new Food Safety Law. USDA was committed to ensure that its regulatory policies were based on science and met its international obligations. The United States urged China to work with the USDA on its application of equivalence and to provide the requested information as soon as possible.

(iv) *Import Restrictions due to BSE (STC 193) – Concerns of the European Union*

44. The representative of the European Union reported that certain WTO Members still maintained unjustified import restrictions to protect against Transmissible Spongiform Encephalopathies (TSE). The European Union urged Members to lift any unnecessary, disproportionate, or discriminatory restrictions which negatively affected EU exports. The European Union recalled that OIE had issued BSE standards based on scientific risk assessments and defined the conditions under which commodities could be safely traded. In May 2010, additional wording was inserted in Article 11.6 of the OIE – Terrestrial Animal Health Code to clarify that, providing the commodities had been imported in accordance with those conditions, the status of the importing countries would not be affected. The European Union recalled that according to OIE recommendations, it is possible to import meat or even live animals from countries having a "negligible", "controlled", or "undetermined" BSE risk status, as long as OIE rules on surveillance and control were followed. In addition, for certain products under specific conditions, such as de-boned skeletal muscle meat, milk and milk products, semen and embryos, there should be no BSE import requirements regardless of the BSE risk or the age of the cattle population of the exporting country, zone or compartment. The representative of the European Union stated that some Members had recently announced new measures which, without any scientific justification, deviated from OIE standards. The European Union urged Members to align themselves with the OIE process and to process applications from the European Union.

(v) *EU Artificial Colour Warning Labels – Concerns of the United States*

45. The representative of the United States reiterated concerns about EC Regulation 1333/2008 on food additives. Article 24 of the Regulation required warning statements on food products that contained one or more of six colour additives: Sunset Yellow (E110), Quinoline Yellow (E104), Carmoisine (E122), Allura Red (E129), Tartrazine (E102), and Ponceau 4R (E124). The United States was particularly concerned with the scientific basis of the regulation, its potential negative impact on international trade, and the transparency of its adoption. Most of these six colour additives were widely used by the food industry in products such as confectionaries and beverages.

When the draft regulation was notified to the WTO (G/SPS/N/EEC/291), it did not contain the provision on warning statements, and the United States was not aware of an addendum to the original notification. Scientific evaluations from the University of Southampton in 2007 and the European Food Safety Authority (EFSA) in 2009 did not substantiate a link between the individual colours and possible behavioural effects in children. The United States was also concerned that even though EFSA was unable to substantiate a link, the European Union planned to implement the measure in July 2010. The United States had recently petitioned the European Union to delay implementation and would shortly provide the European Union with more than 580 studies to warrant a thorough scientific review of relevant evidence.

46. The representatives of New Zealand and Mexico supported the concerns raised by the United States, noting that the EU measure did not seem to be based on scientific evidence.

47. The representative of the European Union clarified that the labelling requirement had been adopted in December 2008 and included a transitional period of 18 months for implementation, which would expire on 20 July 2010, allowing industry time to comply. This measure had been notified by the European Union as a draft on 10 August 2006 (G/SPS/N/EEC/291) and as an addendum with the final text on 2 July 2009 (G/SPS/N/EEC/291/Add.1). A 2007 study by the University of Southampton had concluded that exposure to some mixtures of colorants resulted in increased hyperactivity in 3-year old and 8- to 9-year old children. The new EU regulatory regime on artificial colorants was not an import ban but only introduced certain specific labelling provisions. An opinion from EFSA had concluded that although the changes noticed in children's behaviour were small, they were statistically significant. Until new elements demonstrated the absence of those effects, the European Union's position would remain unchanged. The European Union encouraged the United States to share any additional scientific data as it became available.

(vi) *Venezuela's Suspension of Inspection and of Emission of Phyto- and Zoo-sanitary Certificates (STC 290) – Concerns of Colombia*

48. The representative of Colombia reiterated the concerns presented in G/SPS/GEN/983 concerning the suspension of inspections and of the delivery of plant and animal health certificates for Colombian products into the Bolivarian Republic of Venezuela. Colombia considered the measures adopted by Venezuela to be in flagrant violation of the basic provisions of the SPS Agreement, in particular Article 2, Annex C, and Article 13. Colombia considered those measures to represent undue obstacles to trade as there were not based on scientific evidence of a health risk.

49. The representative of Venezuela responded that the issue had been clarified at the March 2010 meeting. The information presented in G/SPS/GEN/983 was not based on official documents or on a certification refusal, but rather on information from the press. The request for approval related to lisdexamfetamine should not be considered an SPS matter, but as an import licensing issue outside the scope of the SPS Agreement. Venezuela suggested that the issues raised by Colombia be discussed bilaterally.

50. The representative of Colombia noted that at the March 2010 meeting, Venezuela had stated that the measures announced by Colombia were based on press releases and therefore not duly justified. As a result, Colombia had submitted additional documentation showing instructions banning the delivery of licenses and permits. Colombia wished to receive an explanation as to why those instructions had been issued.

51. The representatives of Cuba and Bolivia encouraged both countries to solve their differences bilaterally.

(vii) *US Proposed Rule on Importation of Wooden Handicrafts (STC 284) – Concerns of China*

52. The representative of China reiterated the concerns regarding US restrictions on wooden handicrafts from China (G/SPS/N/USA/1921). The notified draft regulation would apply to all wooden handicrafts from China although the risks which had triggered the import ban were only associated with wooden handicrafts with a diameter over one centimetre. China hoped that the United States would limit the scope of the measure to products presenting real risks. According to the draft regulation, all wooden handicrafts from China would be subject to fumigation or heat treatment and require plant quarantine certificates, which would unnecessarily raise costs for the Chinese handicraft industry and plant quarantine authorities. China had made these points in its written comments on the notification and hoped they would be taken into account when finalizing the regulation.

53. The representative of the United States explained that the emergency action of April 2005 only prevented the import of wood handicrafts with attached bark. Chinese-origin wood handicrafts remained enterable with the bark removed and properly treated. However, to address China's market access concern, the United States had published a proposed rule to reauthorize the importation of Chinese-origin wood handicrafts subject to specific requirements. The proposal notified on 27 April 2009 as G/SPS/N/USA/1921 would allow resumed trade in a broad range of handicrafts while continuing to protect the United States against the introduction of plant pests such as wood boring beetles. The comment period on that notification had closed on 8 June 2009, and the United States had received eight comments, including comments from China. The USDA's Animal and Plant Health Inspection Service would promulgate an additional proposed rule addressing China's concerns, and subsequently a final rule, after evaluation of public comments.

(c) *Consideration of Specific Notifications Received*

(i) *Canada's Notification on Asian Gypsy Moth, Plant Protection Policy for Marine Vessels (G/SPS/N/CAN/281/Rev.1) – Concerns of China*

54. The representative of China raised concerns on Canada's notification circulated on 7 May 2010 concerning its plant protection policy for marine vessels which may carry Asian Gypsy Moth (AGM). China and other Members had previously expressed concerns about the application of the North American Plant Protection Organisation (NAPPO) regional standard on AGM. While China recognized Canada's rights to develop phytosanitary measures, China was concerned about the negative effect of the measure on exports and its scientific justification. China requested (i) that Canada provide a risk assessment report of AGM from Chinese-consigned marine vessels prior to implementing the draft regulation; and (ii) that the different climatic conditions of China's ports be considered in determining the risk of AGM. Finally, China suggested that required documentation for marine vessels should be limited to marine vessels that visited ports in regulated areas during the egg laying season of AGM within 1 to 2 years to minimize unnecessary trade obstacles.

55. The representative of Korea referred to the comments it had sent on Canada's notification. Korea expressed concerns about the measure's proposed adoption date of 1 June 2010 and asked that the measure be implemented with minimum trade impacts.

56. The representative of Canada reported that it had had a constructive bilateral meeting with China prior to the Committee meeting. Canada reiterated that the NAPPO measure was being put in place to protect North American forests and pre-empt the high costs of eradication. In 2009 egg masses of AGM were found on ships from Asia. The standard was approved on 10 August 2009, had entered into force in 2010 and would be phased in by March 2012. Canada emphasized that all stakeholders had been consulted during that process, that it continued to take into account the concerns of its trading partners, and that a technical working group had been established to address concerns and risks in a collaborative manner.

(d) Information on Resolution of Issues

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

V. OPERATION OF TRANSPARENCY PROVISIONS

58. The Chairperson noted that the most recent list of National Notification Authorities was contained in SPS/NNA/15, and the most recent list of National Enquiry Points in SPS/ENQ/25. The Chairperson reminded the Committee that the paper copies of these lists were updated only once every year, but that the electronic lists were constantly updated and available through the SPS Information Management System (SPS IMS). The Chairperson asked Members to provide the most recent contact information to the Secretariat so that it could be included in the SPS IMS.

59. The Chairperson indicated that notifications received since the last meeting of the SPS Committee were summarized on a monthly basis in G/SPS/GEN/1016, G/SPS/GEN/1018, and G/SPS/GEN/1025.

60. The representative of Chile pointed out that last year following the outbreak of H1N1 influenza, Albania had notified a measure (N/ALB/124) prohibiting imports from Chile due to avian influenza which did not exist in Chile. Chile had been unable to contact the Albanian National Notification Authority (NNA) to clarify the situation and had not yet received a response to its query from Albania who was also not present at the Committee meeting. Chile asked that before submitting notifications, Members analyze all information, including information from the OIE, to avoid mistakes, particularly in emergency notifications, and the potential to cause a domino effect of unnecessary trade restrictions from other countries. Chile also noted that its SPS NNA had received TBT notifications from several countries. Measures could be notified under both agreements when in doubt, but some measures had nothing to do with SPS and that led to unnecessary increases in the work of Enquiry Points.

61. The representative of Mexico referred to a communication issued on 19 April 2010 about its 2010 program of normalization which had included by mistake a 2004 communication. Mexico asked Members to refer to the 2010 communication.

62. The Secretariat clarified that when a notification is sent through the Central Registry of Notifications, it is sent either to the SPS or the TBT Committee. If it appeared to contain a TBT measure the Secretariat researches whether it was also notified as a TBT measure. If it had not been notified under TBT, the Secretariat contacts the Members' NNA and suggests that the measure be notified as TBT, or in addition to notifying it under SPS. The TBT team follows a similar process. Regulations with elements of both SPS and TBT were more difficult. Sometimes this would not be obvious from the brief description provided, and when in doubt it would be circulated as an SPS notification. The Secretariat asked Members to contact the NNA of the notifying Member directly to request clarification, and also to verify and update the NNA and EP contact information provided to avoid communication missteps.

(a) Preparations for October Special Workshop on Transparency

63. The Secretariat reminded the Committee that it was organizing a workshop on transparency to begin on Monday, 18 October 2010 and resume on Friday, 22 October. The Committee's informal and regular meetings would be held on 19-21 October. All Members, Observers and observer organizations were invited to attend the workshop. The WTO would be able to fund the participation of about 50 government officials from developing countries and LDCs, and the Secretariat particularly encouraged officials from Enquiry Points (EPs) and National Notification Authorities (NNAs) to participate. Further details on eligibility, funding and application forms could be found in

document G/SPS/GEN/997. The deadline for applications for funding to participate in the workshop was 9 July 2010.

64. The Secretariat presented the draft programme for the workshop (G/SPS/GEN/1021), and requested that Members submit any suggestions on the programme by 9 July 2010. The first day of the workshop would involve general presentations on the transparency provisions and their level of implementation. The Secretariat would also present existing WTO reference materials and tools, including the SPS IMS, that may help in implementing transparency provisions. The STDF would also make a brief intervention on initiatives to improve the functioning of EPs and NNAs. Finally, Members would be invited to share their experiences in the plenary and break-out sessions. The second day would be more practical and hands-on, focusing on how to prepare notifications and how to react to incoming notifications. The Secretariat was currently working on developing online submissions for notifications and hoped to present the system in October for feedback from delegations.

VI. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

65. The Secretariat reported that it had provided an update on the Category II S&D proposals referred to the SPS Committee, for the information of the Chair of the Committee on Trade and Development in Special Session. The update referred to progress made and activities of the Committee in recent years related to Category II proposals, which concern specifically Articles 9 and 10 of the SPS Agreement. The Secretariat also referred Members to document JOB(09)/94 from the Committee on Trade and Development for which it had also provided an update on developments relating to SPS and S&D. The document provided a comprehensive report on the implementation of all S&D provisions in the various WTO Decisions and Agreements.

VII. EQUIVALENCE – ARTICLE 4

(a) Information from Members on their Experiences

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

(b) Information from Relevant Observer Organizations

67. No observer organization provided any information under this agenda item.

68. The Secretariat noted that in the context of technical assistance activities, it often becomes aware of various Members' experiences with equivalence. The Secretariat encouraged Members to share this information with the Committee, along with any relevant internal reports and evaluations so Members could learn from each others' experiences.

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

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

69. The representative of the Philippines drew attention to document G/SPS/GEN/1031, which provided supplementary information to the new FMD status awarded to the Philippines by the OIE General Assembly in May 2010. The Philippines had been designated as FMD-free without vaccination, except for one zone which was eligible to apply for the same classification as of August 2010, for consideration by the OIE General Assembly in 2011. The Philippines had invested substantial resources to achieve this new status and had facilitated the active participation of stakeholders. To further sustain the programme the national government was working closely with regional officers and local government units.

70. The representative of Paraguay drew attention to document G/SPS/GEN/1023 regarding the fact that Paraguay had been designated by the OIE as FMD-free with vaccination. That classification reflected the ongoing implementation of an agreement between the Standing Veterinary Committee of the Southern Cone and the OIE to establish high surveillance zones in areas along the borders of Argentina, Brazil, Bolivia and Paraguay. Paraguay highlighted that joint efforts between public and private sectors would lead to the construction of a new diagnostic laboratory for FMD and other potential diseases exotic to Paraguay. That effort would provide suitable facilities for risk material management and FMD immunization control. Paraguay also highlighted its re-certification by the OIE as a "BSE Negligible Risk" country and as free from rinderpest. Finally, Paraguay drew attention to its National Swine Health Plan and the Programme for the Eradication of Classical Swine Fever 2010-2012, adopted by Executive Decree No. 4.214 on 16 April 2010, which covered matters related to the sector's production but also the improvement of health conditions among the country's swine population.

71. The representative of Brazil drew attention to its recent notification G/SPS/N/BRA/115, and noted that with the addition of Mato Grosso do Sul, a region of 14 states had been designated as free of Black Sigatoka.

72. The representative of the United States reported USDA's recent determination that the Mendoza province of Argentina had been recognized as a pest-free area for Mediterranean fruit fly. The United States invited all Members to review its notification G/SPS/N/USA/2039 on the matter and send comments by 29 August. Finally, the representative of the United States stated that all of Chile was also now recognized as Med-fly free.

(b) Information from Members on their Experiences in Recognition of Pest- or Disease-free Areas

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

(c) Information from Relevant Observer Organizations

74. The representative of the IPPC congratulated Members for their information exchange in the SPS Committee, but expressed concern that IPPC was not receiving notifications. The representative of IPPC asked Members to notify the IPPC as well as their trading partners, as per the obligations of the Convention.

IX. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from the Secretariat

(i) *WTO SPS Activities*

75. The Secretariat referred Members to document G/SPS/GEN/997, which compiled all the upcoming technical assistance activities for 2010, including eligibility criteria, deadlines, pre-requisites, application processes and application forms. The Secretariat was planning to hold three regional workshops, one advanced SPS course (previously known as the specialized course) as well as a transparency workshop. Delegates were reminded that the deadline for application to those activities was 9 July 2010.

76. Since the last SPS Committee meeting, the Secretariat had delivered four national seminars in Madagascar, Seychelles, the Dominican Republic, and Serbia. Nineteen participants from the October 2009 Advanced SPS course had been invited back to Geneva to present their action plan to

enhance and improve the implementation of the SPS Agreement in their respective countries. The Secretariat noted that the participants had achieved very encouraging and impressive outcomes.

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

77. The Secretariat provided an update on the operation of the Standards and Trade Development Facility (G/SPS/GEN/1029). The STDF team was working on two STDF events. One was a technical working meeting scheduled for 1 July 2010 and organized in collaboration with the OECD in order to facilitate discussion of a joint STDF/OECD working paper on the development and application of indicators to measure the performance of national SPS systems and, in particular, a set of preliminary indicators. Based on discussions at the meeting, and following pilot testing activities in countries in the second half of 2010 and in 2011, this document would be finalized and published as a guide for the development and application of SPS indicators at country level.

78. The second STDF event was a workshop on public/private partnerships (PPPs) in the SPS area. The workshop was scheduled for 4 to 6 October in the Netherlands, in close collaboration with the Dutch Ministry of Agriculture and the World Bank, and would present examples of PPPs and consider common challenges, innovations and good practices. A site visit on 6 October to the Port of Rotterdam was also planned. The STDF was currently identifying concrete examples of SPS-related partnerships to present at the workshop and asked delegates if they could notify STDF by 16 July 2010 if they had examples of such partnerships. The STDF Secretary noted that limited funds were available to sponsor some officials from developing countries providing relevant information on partnerships to attend the workshop. The workshop would be held in English with no translation available. Further information about the event would be available on the STDF website in July.

79. The Secretariat reported that the STDF had held a workshop on economic analysis methodologies in the SPS area in October 2009. The objective of the workshop was to develop practical tools to support the use of economic analysis in SPS-related decision making and enhance resource allocation. The Secretariat noted that there would be a follow-up to that work in the second half of 2010 through a pilot project that would test those methodologies in selected countries. Institutions and/or countries interested in that pilot initiative were encouraged to contact the STDF by 30 July 2010.

80. The Secretariat drew the Committee's attention to the second STDF newsletter of 2010 and noted that the STDF had set up a new electronic distribution service. If delegates wished to receive the newsletter and other STDF news/publications, they could register through the WTO news service. It was also noted that the new STDF website would be launched in July.

81. The next deadline for the submission of applications for STDF projects was 30 July 2010. The Secretariat noted that the application forms for STDF projects and project preparation grants had been revised and that a new "Guidance Note for Applicants" was also available on the STDF website.

(b) *Information from Members*

82. The representative of Canada provided an update on SPS-related technical assistance delivered to developing countries in calendar year 2008 (G/SPS/GEN/1027). In 2008, a total of 17 SPS-related technical assistance projects, targeting various geographical regions, including Central America, the Caribbean, South America, the Asia-Pacific region, Central Asia, Eastern Europe, and Africa had been initiated. Canada had committed a total of approximately 25 million Canadian dollars to SPS-related technical assistance to the developing world through these projects.

83. The representative of Colombia thanked Canada for the assistance it had received in the form of a donation of laboratory diagnostic equipment. The donation consisted of "smart cycle" PCR equipment along with other laboratory equipment valued at approximately 61 million dollars. Two Colombian officials had also received technical training for the use of the new equipment. The new equipment would allow for the detection of Foot and Mouth disease, Vesicular stomatitis virus, Newcastle disease, Avian Influenza, infectious bovine rhinotracheitis, Bluetongue disease, etc.

84. The representative of the Dominican Republic reported on a technical assistance activity that had taken place in Santo Domingo on 7-9 June 2010 (G/SPS/GEN/1034). The representative of the Dominican Republic thanked the WTO Secretariat for its support in undertaking that national workshop on the SPS and TBT Agreements.

85. The representative of Kenya reported on technical assistance in national capacity development in phytosanitary and food safety areas received from the European Union (G/SPS/GEN/1020). Kenya Plant Health Inspectorate Service (KEPHIS) had received a grant of 3.2 million euros for capacity building in the areas of analytical services for contaminants in food and feed, plant health diagnostics and expansion of laboratories. Kenya thanked the European Union and other donors for their continued assistance in both technical and infrastructural capacity development initiatives.

86. The European Union congratulated Kenya and in particular KEPHIS for the progress made in the fields of sanitary and phytosanitary analysis, compliance, and capacity building.

(c) Information from Observers

87. The representative of the IPPC brought to the Committee's attention the technical assistance activities listed in document G/SPS/GEN/1028 and noted IPPC's adopted strategy for building national phytosanitary capacity. The document was available on the IPPC website and had been already used by some Members in the development of projects.

88. The representative of OIRSA provided information on specific projects and technical assistance activities and highlighted several of the OIRSA projects detailed in document G/SPS/GEN/1033.

89. The representative of IICA provided information on SPS-related technical assistance activities (G/SPS/GEN/1026 refers), and noted that IICA had held a series of workshops on risk communication as part of the IICA/STDF-108 project, based on countries' requests and their capacity-building needs in that area. IICA had also implemented the second chapter of the project to support participation by the Americas in Codex Alimentarius committees. IICA had also held SPS awareness raising workshops and had provided training in international standard-setting processes in Jamaica, Barbados and Bahamas/Belize.

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

(a) Issues Arising from the Second Review

(i) *Use of Ad Hoc Consultations (G/SPS/W/243/Rev.2)*

90. The former Chairperson, reported that at the informal meeting of the SPS Committee on the enhancement of procedures for *ad hoc* consultations held on 28 June 2010, she had reminded the Committee that it had agreed to "*endeavour to expeditiously conclude this outstanding issue from the Second Review in a manner which facilitates the use of ad hoc consultations, including through the good offices of the Chairperson of the SPS Committee, for the resolution of specific trade concerns.*"

91. The Secretariat had introduced the second revision of the draft proposal, contained in G/SPS/W/243/Rev.2. As requested by Members at the last meeting, the changes that were suggested since the previous revision were included in square brackets. Only two Members had made specific comments on the text of the document, either at or following the March meeting of the Committee.

92. Some Members had highlighted differences between the draft procedure and the "horizontal mechanism" under discussion in the NAMA negotiations. They wished to avoid differences between the procedure adopted in the SPS Committee and a possible wider mechanism to be adopted under NAMA.

93. One Member had reiterated its view that only the participation in a first meeting should be mandatory. Several Members had opposed this suggestion, stressing that the procedure was meant to be an *ad hoc*, flexible opportunity to solve trade concerns. More formal alternatives were already available, including raising a specific trade concern in the Committee, or initiating a dispute settlement procedure. Making the procedure less flexible or non-voluntary would mean that it would be less used.

94. One Member had invited Members who already had had experiences with *ad hoc* consultations under Article 12.2 to provide information on their experiences, including what had worked well, and what could improve the process. The Secretariat had noted that a long time had passed since such consultations were last held, and that most of the delegates that had been involved were no longer participating in the SPS Committee. In addition, the procedure that was used had been described in the Second Review. The Chairperson's Good Offices had been requested in writing or orally. The Chair or the Secretary had then arranged a meeting with all parties involved, listened to all sides, and suggested a possible way forward. This had been very informal, and the process had been in confidence. Once the process had been completed, the Chairperson had informed the Committee.

95. While some Members had wished to discuss the draft document in detail, others had not come prepared to do so. The Chairperson had highlighted again that the issue had been under discussion for a number of years and that the Committee had agreed as part of its Third Review to expeditiously conclude its discussions. Any procedure adopted by the Committee would not be final and could be reviewed, as was indicated in paragraph 19 of the draft procedure. Furthermore, paragraph 3 clearly indicated that the procedure was not intended to prejudice in any way the process or outcome of the work of any other Committees, including negotiating bodies.

96. In concluding the report on the informal meeting, the former Chairperson noted that since some Members had not been ready to discuss the document section-by-section, she had asked that Members submit their comments on the draft document, or any other comments, before 30 July. Members with experience using the Chairperson's Good Offices had also been invited to provide information to the Committee if such information were still available.

97. In response to the report on the informal meeting, the representative of India welcomed the suggestion regarding the exchange of experiences of Members with *ad hoc* consultations in order to learn more about the role of the facilitator and the adherence to specific timelines and procedures. India cautioned against using short cuts and jumping into text-based negotiations, and reminded Members of the ongoing work in the Negotiating Group on Non Agricultural Market Access (NAMA) on the horizontal mechanism. The horizontal mechanism was intended to institutionalize an informal procedure concerning non-tariff barriers, including SPS measures. The horizontal mechanism was at a higher level of maturity and had broader support than the *ad hoc* consultations and, therefore, it was important that discussions in the SPS Committee did not infringe on or adversely affect the negotiations in the Negotiating Group on NAMA. The representative of India noted that there were many salient features in the horizontal mechanism that were not reflected in the proposed text on the

ad hoc consultations, including third party participation, tighter timelines, flexibility in the use of procedures, the active role of the facilitator, transparency procedures, language on the confidentiality of data, thresholds for filtering submissions, the mandatory nature of information exchange, etc. India would provide a submission with suggestions incorporating those features.

98. The representative of Hong Kong, China noted that while Members were committed to looking for a possible compromise on various aspects of the proposed horizontal mechanism, views were still quite divided as to whether that mechanism should cover SPS-related measures. Regardless of their respective positions, there was a general consensus among Members on the need to strengthen the operation of WTO committees. Hong Kong, China supported the objective of expediting the discussions on the *ad hoc* consultations draft proposal which it found to be balanced and reasonable. Article 3 contained a "without prejudice" clause and Article 19 included a review clause, which would provide for the review of the mechanism in light of the operation of the *ad hoc* mechanism and other developments in the Doha Round negotiations. Hong Kong, China was fully prepared to engage in a text-based discussion of the draft proposal and invited Members to also engage in discussions in a timely and constructive manner, with a view to finalising the proposal.

99. The representative of Argentina reiterated the differences between the horizontal mechanism negotiations and the discussions in the SPS Committee as concerned their starting point, negotiating procedures and their objectives. All Members were aware of the situation of the Doha Round and its uncertain future. Members' contributions to the *ad hoc* consultations draft text could strengthen or improve the proposal without affecting its substance. Finally, the representative of Argentina noted that Members were still unsure as to whether the horizontal mechanism would include SPS measures or to what extent the mechanism would reflect the scientific principles of the SPS Agreement.

100. The representative of Switzerland, one of the co-sponsors of the proposal on WTO procedures for the facilitation of solutions to Non-Tariff Barriers, supported the views expressed by India. When the horizontal mechanism would be adopted, the proposal would be sent to all relevant WTO committees for application. The relevant WTO committees would be responsible for implementing the procedures and a Committee could decide to adjust the procedures, if deemed necessary, to fit existing working procedures. Although the issue of scope had not yet been settled, there was no reason to exclude the SPS Agreement from the scope of the horizontal mechanism. Switzerland preferred to avoid having a mechanism/procedure for SPS that was clearly different from that of other committees.

101. The representative of Switzerland gave some preliminary comments on the draft proposal, and first noted that the reference in the title of G/SPS/W/243/Rev.2 to "negotiations among Members under the SPS Agreement" was misleading. The role of the facilitator was so limited in the draft proposal that Switzerland questioned whether there was even a need to have a facilitator. The facilitator would be responsible to facilitate communication between Members (paragraph 12), but in contrast to the horizontal mechanism proposal, the facilitator could not take any position based on technical questions (paragraph 13). If the parties agreed on all technical questions, they could informally have discussions without the help of a facilitator. Switzerland stated that another issue that was not included in the draft proposal was the rights and obligations of the third parties.

102. The revised document indicated that the good offices of the Chairperson had been used on three occasions with 10 countries using the facilitator approach proposed in Article 12.2 of the SPS Agreement. The representative of Switzerland therefore proposed that the Committee hear experiences from delegations that took part in those cases. Discussions should include the following: positive aspects of having ad-hoc consultations with the Chairperson, the exact role of the facilitator, and elements that would have been more useful in resolving the problem.

103. The representative of Japan recalled that the original purpose had been to create a user-friendly mechanism to discuss issues within the Committee. The point was not to compare this mechanism with the horizontal mechanism. Japan was looking forward to a constructive and focused discussion during the Committee meeting.

104. The representative of Brazil stated that Brazil was prepared to analyze and compare the recommended procedures proposed in the SPS Committee and those in the horizontal mechanism. The horizontal mechanism was at a more mature stage than the *ad hoc* consultations, and it should also include SPS issues. The horizontal mechanism was to be used as a reference regarding the level of ambition sought in the SPS Committee in terms of the development of a consultations mechanism. Brazil would continue to analyze the current draft proposal, particularly as it compared to some of the key provisions of the horizontal mechanism, such as participation of third parties, the use of a facilitator, and the establishment of time limits. Brazil agreed with Switzerland that the priority should be a well functioning mechanism rather than one developed with haste. Brazil would comment on the current draft proposal and supported an efficient mechanism that would help avoid the formal dispute process.

105. The representative of the Philippines noted that there was an increasing dichotomy in the views put forward by Members and a need for coherence in the work of both the SPS Committee and the Negotiating Group on NAMA. The Philippines supported Switzerland's suggestion to exchange information on past experiences on the use of Good Offices of the Chairperson.

106. The representative of Chile agreed with Argentina and Japan that the task at hand should have been completed a long time ago given that the process had begun in 1995. The objective was to create procedural guidelines for a process that was of an informal nature and had so far only been used on three occasions. Chile cautioned that if the procedure started to become complex, it would be difficult to finalize. Concerning experiences with the citrus canker consultations, in which Chile was involved, the facilitator had had a very constructive role and good results had been achieved. A risk mitigation issue was resolved which had allowed Argentina to export to the European Union. Finally, Chile noted that the text resulting from the SPS Committee consultations could be revised to reflect developments in the NAMA negotiations.

107. The representative of Argentina expressed concern that several Members had asked for a comparative exercise and coherence between the horizontal mechanism and the *ad hoc* consultations. This was not the mandate of the SPS Committee.

108. The representative of Norway supported the comments made by India, Switzerland and Brazil. As a co-sponsor of the horizontal mechanism, Norway wanted a mechanism that worked for SPS as well as for other agreements. There was room for improvement in the draft proposal and Norway welcomed the opportunity to submit comments.

109. The representative of Pakistan supported the comments made by India, Switzerland, Brazil, Norway and the Philippines. A large number of Members were not convinced that the proposed process was an improvement of, or even comparable with, the horizontal mechanism. Pakistan supported a thorough comparison between the two procedures, particularly with respect to the facilitator's role, information exchange, specific timelines and the mandatory and voluntary nature. It was Pakistan's view that while measures under the Agreement on Agriculture were excluded, all goods were included in the horizontal mechanism.

110. The representative of the United States supported the statements by Argentina, Hong Kong, Japan, and Chile. The job at hand was to raise issues and resolve specific trade concerns and in order to do that, Members had to have many tools at their disposal. It was not necessary to compare tools. The Committee had been discussing the guidelines for the *ad hoc* mechanism since 1999 while

NAMA had started discussing a horizontal mechanism since 2004. The United States urged Members to be prepared to discuss document G/SPS/W/243/Rev.2 in October.

111. The representative of Canada supported the statements by Argentina, Japan, Chile, Hong Kong, China and the United States. Canada supported the coexistence of the *ad hoc* mechanism and of the horizontal mechanism and considered that the *ad hoc* mechanism should be flexible, voluntary and confidential.

112. The representative of the European Union stated that while the European Union supported an informal trade dispute solving procedure in the SPS Committee, it preferred the more general horizontal mechanism. The horizontal mechanism was at a more mature stage and that process should not be prejudiced by arrangements reached in the SPS Committee. However, an additional tool in the SPS Committee to address trade concerns would be useful.

113. The Chairperson reminded Members that comments on G/SPS/W/243/Rev.2 should be sent to the Secretariat by 30 July 2010.

(b) Issues Arising from the Third Review

114. The Chairperson noted that the report of the Third Review of the Operation and Implementation of the SPS Agreement had been adopted on an *ad referendum* basis on 18 March 2010. Since no Member had submitted any objections by the deadline, the report had been adopted and circulated in document G/SPS/53.

115. Regarding the organization of future work, the Chairperson noted that as part of the Third Review, the Committee had agreed to further work in a number of areas. The Secretariat recalled the issues that had been identified in the Review where the Committee had decided to do substantive work. In particular, the Secretariat highlighted those areas for further work where Members had submitted concrete suggestions or proposals.

116. The Committee agreed to hold an informal meeting in conjunction with the next regular meeting of the Committee to consider issues identified for further work. The Chairperson invited Members to submit proposals by 30 September 2010 on specific issues the Committee had agreed to do further work on. The Chairperson noted that, based on concrete proposals tabled by Members before the next meeting, he would circulate a specific agenda for an informal meeting on issues arising from the Third Review.

XI. MONITORING OF THE USE OF INTERNATIONAL STANDARDS

(a) New Issues

117. No new issues were raised under this agenda item.

(b) Issues Previously Raised

118. Several Members made comments and suggested revisions to the draft annual report on the monitoring of the use of international standards. The Chair clarified that those comments would be reflected in the agenda item relating to the adoption of the annual report.

(c) Adoption of Annual Report (G/SPS/W/250)

119. The Chairperson noted that the Secretariat would prepare a revised document based on both the oral and written comments from Members and would then circulate the revised annual report on

the Monitoring of the Use of International Standards. Members would have three weeks to comment and submit any objections, failing which the annual report would be adopted on an *ad referendum* basis.

XII. CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS

(a) Report on Chairperson's Consultations

120. The former Chairperson informed the Committee that the *ad hoc* working group on private standards had held its sixth meeting on Monday, 28 June.

121. A representative from the ISO had given a presentation on ISO's recent publication *International Standards and "Private Standards"*. After an overview of the ISO system, the standard-setting process and its implications for policy-making, he had discussed that work in the context of the discussion on private standards. He had explained ISO's key principles of transparency, openness, consensus and impartiality, market relevance and effectiveness, coherence and development. Those were explicit principles in line with the Decision of the TBT Committee on the development of international standards, guidelines and recommendations. In that respect, ISO standards had to be considered separately from other private schemes which did not necessarily follow these principles.

122. The ISO representative had supported increased engagement among ISO, Codex, OIE and non-governmental organizations working on private standards such as the Global Food Safety Initiative (GFSI). He had encouraged such organizations to move away from private standard-setting to focus instead on implementation and harmonization, with a view to optimizing the benefits of private standards. In that context, he had referred to ISO 22000 in the area of food safety, which was based on the Codex HACCP principles, and to other ISO standards relating to labelling and certification.

123. Working group members had had a constructive discussion with the ISO representative to clarify questions relating to transparency, consensus, and the distinction between private, international, and ISO standards. The ISO representative had noted that one helpful development in recent years had been the implementation of an electronic tool to collect data about the national use of standards during the normal ISO review process, which was three years following the initial publication of a standard.

124. The representative of Codex had provided an update on Codex's work on the issue of private standards. Following the decision taken at the last 32nd meeting of the Codex Alimentarius Commission in July 2009, FAO and WHO had prepared a new study on private standards for consideration by the Executive Committee and the Commission during its upcoming meeting in July 2010. A side-event on private standards would take place during that meeting of the Commission. The Codex Secretariat had also prepared, for the Commission's consideration, a document on the speed of the Codex standard-setting process, which had been suggested, as one of the reasons for the development of private standards. When solid risk assessment was available, Codex could develop standards within one year, for example for pesticide residues. In controversial areas, such as the development of the definition of dietary fibre, discussions had lasted almost 20 years.

125. The Secretariat had agreed to make available the PowerPoint presentations of the ISO and Codex representatives on the WTO's SPS gateway.

126. The representative of the OIE had drawn attention to the OIE General Assembly's Resolution on Private Standards – which was included as an Annex to the OIE submission for the Committee meeting (G/SPS/GEN/1024). In accordance with that resolution, the OIE had been taking steps to

promote compatibility and avoid conflict between private and official standards. The OIE had encouraged global private standard-setting organizations to develop or strengthen transparent mechanisms and work towards harmonization with official standards. The OIE had welcomed continued collaboration with the SPS Committee, Codex, and IPPC as well as strengthening appropriate links and dialogue with private standard-setting organizations such as the GFSI and GlobalGAP. OIE had also encouraged Members to consult with national contact points responsible for animal health and food safety to develop national and regional positions consistent with the new recommendations.

127. The Secretariat had presented the second revision of document G/SPS/W/247/Rev.2, entitled "Possible Actions for the SPS Committee regarding SPS-related Private Standards". The document had been revised in light of oral and written comments from members of the working group during and following the Committee's March meeting. A number of delegations had been concerned about the grouping of possible actions into two sections according to the level of support reached at previous discussions, while others had seen that as a practical way of moving forward the Committee's work. Due to diverging views, the working group had not been in a position, at that stage, to propose concrete actions for consideration by the SPS Committee.

128. In concluding her report on the meeting of the working group, the Chairperson indicated that she had asked the Secretariat to issue a revised version of G/SPS/W/247 after further consultations with the working group and in time for the October meeting of the Committee. She had suggested that the revised document be in compliance with the mandate of the working group and also reflect the different views of the group. To this end, she had suggested that it include a compilation of all actions already identified, along with an indication of the level of support for each of these actions. The revision would also include a set of recommendations supported by the working group for consideration by the SPS Committee regarding further work.

129. The representative of El Salvador stated, on behalf of GRULAC, that while Article 2 of the SPS Agreement established the right to implement measures for the protection of human, animal, plant life or health, such measures had to be based on science and not on commercial reasons. Private standards went beyond the standards, guidelines and recommendations developed by the relevant international organizations. GRULAC requested the Secretariat to continue undertaking studies, workshops and consultations on the matter to find solutions that would allow Members to counteract the negative effects of private standards.

130. The representative of India recalled the text of paragraph 9 of G/SPS/W/247/Rev.2 and questioned whether it had derived from the Committee's discussions or from the *ad hoc* group discussions. India would wait for the final report to be completed in order to deliberate on its content. In response, the Chairperson noted that divergent views had continued to prevail on that point, which did not allow the *ad hoc* group to come forward with more specific and concrete recommendations for the Committee's consideration at this time.

131. The representative of El Salvador noted that the latest revision was a good basis for discussions and that El Salvador was looking forward to submitting comments on the revised document during the next Committee meeting.

132. The representative of Cuba supported the statement made by GRULAC and noted that the most recent document on possible actions was a good basis for continuing work on private standards. Cuba remained concerned about the trade restrictions effects of private standards. Cuba would push for practical solutions in order to monitor private standards in the SPS Committee since their proliferation was affecting market access and had a direct effect on the participation of developing countries in international trade.

133. The representative of ISO noted that his organization had recently published a brochure explaining the distinction between ISO Standards and other so-called private standards and schemes. He expressed concern that W/247/Rev.2 made no clear distinction between international standards developed by ISO, and standards developed by industry-governed groups such as: Global GAP, certain benchmarked schemes of GFSI, and other industry initiatives. He further noted that the standardization disciplines and governance for those standards were different from ISO's formal international standardization process. Many of those schemes did not use ISO international standards or international standards from Codex as the main and explicit base for their implementation. The representative of ISO therefore suggested that the Committee encourage cooperation of such organizations with ISO and with Codex, to harmonize their requirements as international standards.

134. The representative of the OIE highlighted the importance of respecting the clear and distinct position of international standards referred to in the SPS Agreement.

135. The representative of the United States, supported by Brazil, agreed with the OIE and noted that the SPS Agreement was very clear on that it only recognized three international standard-setting bodies.

XIII. REQUESTS FOR OBSERVER STATUS

(a) *Ad hoc* Observers

136. The Committee agreed to invite all of the *ad hoc* observers to participate in the next Committee meeting, including the informal meetings on *ad hoc* consultations and on the Third Review.

(b) New Requests

137. The Chairperson noted that new requests for observer status had been received from the Agency for International Trade Information and Cooperation (AITIC), and from the West African Economic and Monetary Union (WAEMU). Background information on those two organizations could be found in documents G/SPS/GEN/121/Add. 7 and Add.8, respectively.

138. The Committee agreed to grant *ad hoc* observer status to those two organizations on an *ad referendum* basis. If no formal objection were raised before 30 July 2010, those organizations would be invited to the October meetings.

(c) Outstanding Requests

139. 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 (APCC), Convention on Biological Diversity (CBD), International Vine and Wine Office (OIV) and the Gulf Customs Council Standardization Organization (GSO). The Committee decided to revert to these outstanding requests at the next regular meeting.

140. The Secretariat encouraged Members to look at the work that was being done in the CBD, in particular on invasive species and living modified organisms, which were particularly relevant to the scope of the SPS Agreement, and to consider granting *ad hoc* observer status to the CBD.

141. The representative of Canada agreed with the comments by the Secretariat but noted that the document related to the CBD's application (G/SPS/GEN/121/Add.2) was specific to its functions related to the Cartagena Biosafety Protocol. Canada therefore suggested that the CBD be invited to resubmit its request for observer status.

XIV. OTHER BUSINESS

142. The representative of the United States reported that on 17 June 2010, the United States Department of Agriculture (USDA) had published a risk analysis for the import of mangoes from Pakistan and reminded Members that comments on the analysis were due by 16 August 2010. That had been notified to the Committee in G/SPS/N/USA/2040.

143. The representative of Pakistan noted that Pakistan's request for a risk analysis was pending for two other Members.

144. The Secretariat recalled that in March 2010 it had circulated an information document from the Global Food Safety Initiative (GFSI) (G/SPS/GEN/1004 refers). The GFSI was a non-profit foundation bringing together food safety experts from major retailer, manufacturer, and food service companies as well as certification bodies.

145. The Secretariat had participated in a meeting of the GFSI regulatory affairs working group in May 2010 to provide information on the SPS Agreement and the work of the SPS Committee, especially with respect to SPS-related private standards. The GFSI was interested in having an opportunity to present their work to the WTO, preferably in an interactive setting.

XV. DATE AND AGENDA OF NEXT MEETING

146. The Chairperson recalled that the next meeting of the Committee was tentatively scheduled for **20-21 October 2010**. An informal meeting on *ad hoc* consultations and on issues arising from the Third Review would be scheduled for **19 October 2010** while the Transparency Workshop would be held on **18 October** and **22 October**.

147. The Secretariat proposed a tentative calendar of SPS Committee meetings for 2011: weeks of 21 March, 27 June, and 10 October.

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

1. Proposed agenda
2. Information on relevant activities
 - (a) Information from Members
 - (b) Information from Observer organizations
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.10
4. Operation of transparency provisions
 - (a) Interim report on Workshop on Transparency Provisions
5. Implementation of special and differential treatment
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
 - (b) Use of *ad hoc* consultations
 - (c) Issues arising from the Third Review
 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
 12. Observers – Request for observer status
 13. Chairperson's annual report to the Council for Trade in Goods
 14. Other business
 15. Date and agenda of next meeting
149. Members were asked to take note of the following deadlines:
- (i) For submitting comments on the proposed programme for the Transparency workshop AND for submitting applications for 2010 technical assistance activities: **Friday, 9 July**;
 - (ii) For submitting comments on the proposed recommended procedure for *ad hoc* consultations (G/SPS/W/243/Rev.2) AND for submitting any objections to granting *ad hoc* observer status to WAEMU and/or AITIC: **Friday, 30 July**;
 - (iii) For submitting any objections to the revised annual report on the monitoring of the use of international standards (G/SPS/W/250/Rev.1): **3 weeks after circulation**;
 - (iv) For submitting specific proposals regarding further work by the Committee on issues identified in the Third Review of the Operation and Implementation of the SPS Agreement (G/SPS/53): **Thursday, 30 September**;
 - (v) For requesting that items be put on the agenda AND for identifying new issues for consideration under the monitoring of the use of international standards: **Thursday, 7 October**; and
 - (vi) For the distribution of the airgram and the circulation of documents for discussion during the October meeting: **Friday, 8 October**.
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