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**Committee on Sanitary and Phytosanitary Measures**

**SUMMARY OF THE MEETING OF 27-28 MARCH 2012**

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

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

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## I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its fifty-third meeting on 26-29 March 2012. The Committee was first convened in regular session on 26 March in order to elect an interim chairperson for the meetings, and subsequently continued with informal meetings on 26 and 27 March 2012. The regular session of the Committee was reconvened at 3 p.m. on 27 March 2012. The proposed agenda for the meeting was adopted with corrections and amendments (WTO/AIR/3914 and WTO/AIR/3914/Corr.1).

2. The Secretariat drew attention to the General Council's decision to reduce the costs of meetings and of documents (see WT/BFA/128). A main cost of meetings was interpretation and costs could be reduced if meetings started on time. Paper copies of documents circulated in advance of the meeting would no longer be routinely provided and delegates were expected to bring their own copies of documents for the meetings. The Secretariat provided information on how to electronically access restricted and public documents. The Committee agreed that SPS notifications, summary reports of the Committee's regular meetings, and the annual list of SPS-related documents would no longer be circulated in paper copy, although these documents would still be produced and available electronically. The Committee also agreed that the monthly summary list of SPS notifications, and periodic information documents such as membership in WTO, Codex, IPPC and OIE and fulfillment of obligations to identify a notification authority and enquiry point, would no longer be produced (G/SPS/INF/18). The information contained in these documents was available electronically from the SPS-IMS. The October 2012 Workshop on Transparency Provisions would provide further assistance in using the SPS online tools.

## II. ELECTION OF CHAIRPERSON

3. Ms Miriam Chaves of Argentina was elected as the interim chairperson for the SPS Committee. The Committee expressed its gratitude to the previous chairperson, Mr Deny Kurnia, who had returned to Indonesia at the end of 2011.

## III. INFORMATION ON RELEVANT ACTIVITIES

### (a) Information from Members

4. The European Union reported on the detection in Schmalleberg, Germany, in November 2011, of a virus affecting ruminants, namely cattle, sheep and goats in Europe. The "Schmalleberg virus" (SBV) is transmitted by insects and is therefore unlikely to occur during the winter months. It had been detected, to date, also in Belgium, France, Italy, Luxembourg, the Netherlands, Spain and the United Kingdom. The European Food Safety Authority (EFSA) had provided scientific and technical advice which indicated that the impact of this virus on animal health was limited and that there was no evidence that this virus could cause illness in humans. SBV was similar to the Akabane virus found in Asia, Africa and Australia, which was not an OIE-listed disease, not notifiable in the European Union and not subject to specific OIE standards or restrictions. The European Union did not apply any trade restrictions in relation to the *Orthobunyviruses*, and urged its trading partners not to take disproportionate or unjustified measures against EU exports of ruminants and their products. Norway shared the concerns expressed by the European Union and urged trading partners to follow the OIE's recommendation in relation to new and existing diseases.

5. Japan reported that the area afflicted by the March 2011 nuclear plant accident had made steady advances in reconstruction and supply chains had been completely restored. The reactors had reached a condition equivalent to a cold shutdown, bringing the accident to a conclusion. In order to ensure food safety and consumer confidence, new standards for maximum levels for radioactive cesium in foods, which were stricter than Japan's existing rules, had been notified

(G/SPS/N/JPN/287) and would be introduced in April 2012. Import restrictions had been lifted completely by Canada and Chile. Japan requested those Members that continued to impose severe restrictions to take measures based on scientific principles in line with the SPS Agreement. Japan was providing timely information to its trading partners, and distributed additional background documentation to the Committee.

6. The Philippines provided details on the Standards Harmonization and SPS Conformity component of a development cooperation initiative with the European Union (G/SPS/GEN/1154). Results of this component included: (i) on-going development of the Philippine Rapid Alert System; (ii) successful compliance by the Philippines' Bureau of Fisheries and Aquatic Resources (BFAR) with EU requirements (BFAR passed the EU Food and Veterinary Office audit in June 2011); (iii) indexing of SPS-related measures and issuances in a coherent manner (issuances can be retrieved electronically through the SPS e-portal: <http://spsissuances.da.gov.ph>); and (iv) a draft Food Safety Act, which had been filed with the Congress and would put in place a farm-to-fork regulatory system to ensure a high level of food safety as well as fair trade. The Philippines' online application, processing, approval and release of "SPS Import Clearances" was now operational. The European Union welcomed the Philippines' on-going efforts to upgrade its SPS systems, harmonize its requirements with international standards and promote transparency. The European Union would cooperate in on-going efforts and encouraged the Philippines to notify to the WTO any upcoming legislation that may have an impact on trade.

7. The United States reported that on 16 March 2012, the USDA Animal and Plant Health Inspection Service (APHIS) published a proposed rule which would bring its BSE import regulations in line with the OIE standards (G/SPS/N/USA/2340). The deadline for Members to submit comments was 15 May 2012. All trading partners were urged to review their import restrictions with respect to ruminants and ruminant products including beef and products such as tallow, and to adopt measures consistent with the OIE BSE guidelines. The European Union welcomed the move to align US import conditions with OIE standards and hoped that a fast implementation of these import conditions would result in real market access for EU beef exports.

8. New Zealand indicated that the Ministry of Agriculture and Forestry (MAF) had merged with the New Zealand Food Safety Authority and the Ministry of Fisheries in 2011 (G/SPS/GEN/1142). The new ministry would be called the Ministry for Primary Industries, with responsibility for all government work across the agricultural, horticultural, fisheries and aquaculture, forestry and food sectors, including imports and exports. The new ministry would continue to have primary responsibility for food safety and biosecurity. The new name would come into effect on 30 April 2012 and administrative changes (e.g. brands, official seals and logos) would run through to mid-2013.

9. Cameroon was not present at the meeting to provide information on the maximum limits of lead, cadmium and mercury applicable to cocoa and cocoa by-products.

10. Chile provided an overview on its use of compartmentalization for managing SPS risks (G/SPS/GEN/1147). Chile was free from the main pests and diseases of global significance that limited exports and wanted to base its procedures on the OIE guidelines. In the animal health area, Chile was moving forward to implement compartmentalization as the result of a public-private endeavour with the support of the OIE. In December 2011, the legal instrument was issued establishing compartmentalization as a tool for health management and the first compartment was approved for swine production in January 2012.

11. The European Union congratulated Zimbabwe on its first SPS notification. The Secretariat thanked Zimbabwe for using the new online SPS Notification Submission System (SPS-NSS) and invited other Members to do the same.

(b) Information from Observer Organizations

12. The OIE outlined in particular the texts proposed for adoption at the 80<sup>th</sup> General Session in May 2012 (G/SPS/GEN/1141). It was proposed to include African Horse Sickness among the diseases for which the OIE can provide official recognition of disease free status, and to adopt new standards for veterinary legislation. The OIE also highlighted its collaboration with other international standard-setting bodies and a proposal for "mutual recognition" between OIE and Codex standards would be considered at the April 2012 meeting of the Codex Committee on General Principles.

13. The IPPC observed that the Seventh Session of the Commission on Phytosanitary Measures (CPM-7), on 19-23 March 2012, celebrated its 60<sup>th</sup> anniversary with a half-day symposium (G/SPS/GEN/1151). The Strategic Framework for 2012-2019 and a resource mobilization strategy were adopted at CPM-7, in addition a communication strategy is to be developed. The new Near East Plant Protection Organization (NEPO) was recognized. Six standards were adopted, including two new standards, some revisions and two diagnostic protocols. The Codex and OIE had contributed to the process of revising the IPPC standard setting procedures, one example of the collaborative efforts among the international standard-setting bodies. IPPC's new Online Comment System (OCS) was operational and interest has been shown by the OIE and Codex Secretariats, which could result in the further extension of the system. Discussions on IPPC's electronic certification system (ePhyto) would further continue this year. Recent efforts to increase advocacy and public awareness of the importance of plant health included the development of a video, which was shown outside the SPS meeting room. The IPPC proposed to present information and documents to the SPS Committee under specific agenda items. Korea congratulated IPPC on its 60<sup>th</sup> anniversary and supported the Strategic Framework's contribution to the safety of food production; protection of the environment and biodiversity from plant pests; and the facilitation of trade and capacity development of Members. The European Union also congratulated IPPC on its 60<sup>th</sup> anniversary and further recognized the importance of its work, including the advocacy it had undertaken in recent years to find additional financing to allow it to continue standard setting in the field of plant health.

14. Codex indicated that summaries of the seven Codex meetings held since October 2011, as well as direct links to the reports, were available in G/SPS/GEN/1150. Codex highlighted the ongoing development of its strategic plan, including the process for circulating the draft plan and receiving comments from Members, leading up to its final adoption by the Codex Commission in 2013. Codex echoed the comments of OIE and IPPC regarding their collaborative activities and underscored the importance of combining resources in the context of scarce resources. Celebrations are to be planned next year in honour of the Codex's 50<sup>th</sup> anniversary.

15. New Zealand recalled that the workshop on the relationship between the SPS Committee and ISSBs in October 2009 had recommended consideration of the reports on activities of the Three Sisters early in the Committee's agenda (G/SPS/R/57). New Zealand, supported by Canada, suggested that it would, however, be more appropriate for other organizations to report under other agenda items. India questioned whether there should be a distinction between the Three Sisters and other observer organizations with regard to Committee procedures. Australia, Chile, the European Union and the United States also supported the proposal by New Zealand, noting that there was a distinction between the Three Sisters and other observer organizations in the Committee, and suggested that information from other observer organizations be welcomed under the agenda item on technical assistance or on observers.

**IV. SPECIFIC TRADE CONCERNS (G/SPS/GEN/204/REV.12)**

16. The Chairperson recalled that this agenda item was designed to allow Members to raise any specific trade concerns they may have with respect to the implementation of the SPS Agreement. She

would follow the normal practice of first giving the floor to the Member(s) raising the issue, then open the floor to other delegates who wished to address the same issue before inviting the Member whose measure was being discussed to respond.

(a) New Issues

(i) *China's Testing Methods for Food Additives – Concerns of India*

17. India indicated that it had concerns with the 133 notifications issued by China in July, November and December 2011, proposing testing methods for identifying the physical and chemical index of substances in food products. India had responded to the notifications seeking additional information, including clarification on the purpose of the testing methods, and requested China to provide the scientific methodology used for setting these regulations.

18. China explained that it had not received India's questions in advance but would convey these to the relevant authorities, and proposed bilateral technical communications.

(ii) *Indonesia's Port Closure – Concerns of the United States*

19. The United States raised concerns about Indonesia's plan to close several entry ports for imports of fruit and vegetables, including the main port of Jakarta (Tanjung Priok), originally scheduled for 19 March, but postponed until 19 June 2012. The port closure would threaten 90 per cent of fresh fruit and vegetable exports to Indonesia, and the port closure measure was not done in a transparent manner. The United States indicated its willingness to work with Indonesia to resolve any legitimate phytosanitary concerns Indonesia had with respect to fruit and vegetable imports, while also facilitating trade in these products. The United States urged Indonesia to notify these trade restrictions to the Committee and to provide scientific evidence to support them.

20. The European Union agreed that unnecessary trade disruption would occur from the port closure and recalled that any SPS measure should be no more trade restrictive than required and in line with the SPS Agreement. The European Union similarly encouraged Indonesia to notify its draft measures to the WTO and to allow sufficient time for formal comments from trading partners and related discussions.

21. Australia also expressed concerns with Indonesia's revised horticultural regulation, which was of major commercial interest to Australian exporters, and indicated its willingness to work collaboratively with Indonesia to resolve this issue. Chile indicated that it was closely following the concern and awaited the notification of Indonesia in order to work bilaterally on the issue.

22. Canada voiced concern that similar port closures could occur in the future for other commodities, for example, food of animal origin, which could have a negative impact on Canada's exports to Indonesia.

23. New Zealand noted particular concerns that the Jakarta seaport had not been included on the list of accepted entry points as 90 per cent of NZ horticulture exports entered through that port. The port closures would result in higher costs and longer transport times, affecting the quality, value and shelf life of the perishable horticultural products. New Zealand requested justification for the implementation of this regulation and while noting Indonesia's comments regarding port capacity, observed that restricting the number of ports for horticulture imports would compound the problem by diverting trade to fewer and smaller ports. Although the delay in the implementation of the regulations was welcomed, New Zealand requested that the regulations be rescinded as trade to Indonesia would otherwise not be viable. New Zealand looked forward to working constructively with Indonesia and highlighted the need for a transparent approach.

24. South Africa joined with other Members to request that Indonesia notify this regulation to the Committee with the necessary reasoning and documentation. South Africa indicated its willingness to cooperate with Indonesia to find a solution.

25. Indonesia reported that the Ministry of Agriculture had published new regulations No. 15 and No. 16 of 2012, which postponed the enforcement of regulations No. 89 and No. 90 from 19 March until 19 June 2012. The postponement of enforcement of the regulations was in order to provide sufficient time for stakeholders and trading partners to set up infrastructure such as warehouses, cold storage and transportation, so as to prevent distortion in the distribution of fresh fruits and vegetables. Both new regulations provided specific policies for several ports. As of 19 June 2012, all horticulture products should only enter through four ports -- the Belawan Sea Port in Medan, Makassar Sea Port, Tanjung Sea Port in Surabaya and Soekarno-Hatta Airport in Jakarta -- and should no longer enter through the Port of Jakarta (Tanjung Priok). The rationale for these new regulations was based on: (i) the identification of 19 cases threatening Indonesia's agriculture by the quarantine inspection and food security at Tanjung Priok; (ii) the limited ability of the quarantine and food safety laboratory to conduct examinations at Tanjung Priok; (iii) the absence of quarantine installations at entry ports; and (iv) inadequate number of quarantine inspectors in relation to the number of products to be examined. Indonesia indicated that it would notify and circulate the regulation as soon as possible.

(iii) *EU Limits of Aluminum in Flour Products (G/SPS/N/EEC/341) – Concerns of China*

26. China expressed concerns about EU limits on aluminum content in flour products (EC669/2009 and EC887/2010), and excessive testing. The strict requirement by the European Union had impacted China's exports of flour products. The current EU standard based on a 2008 EFSA recommendation which sets out a maximum aluminum content of 10mg/kg, so as to ensure that the weekly intake of aluminum is below 1mg/kg of body weight. However, in 2011, JECFA changed this weekly intake of aluminum to 2mg/kg of body weight. China urged the European Union to reassess the EU limits for aluminum content in flour products on the basis of the new data from JECFA, as unnecessary restrictions on international trade, on the premise of safety grounds, should be avoided.

27. The European Union highlighted the health risks of aluminum, whose use as a food additive had been prohibited based on the 2008 EFSA opinion. A low tolerance had been established for naturally occurring aluminum in flour. When the level of aluminum detected in food exceeds 10mg/kg, it is a clear indication that a food additive containing aluminum has been used. In 2011, there were 35 notifications in the EU rapid alert system for food and feed (RASSF) on high levels of aluminum in noodles from China, with levels up to 50mg/kg. Since October 2010, dried noodles from China had been subjected to an increased control frequency of 10 per cent, which would continue until there was a clear indication that Chinese noodle manufacturers were no longer using additives containing aluminum.

(b) *Issues Previously Raised*

(i) *Import Restrictions Due to BSE – Concerns of the European Union (No. 193)*

28. The European Union recalled that it had repeatedly raised concerns about the continued bans or restrictive conditions on bovine products from EU member States - allegedly because of BSE - that did not respect the international standards as required by the SPS Agreement. The OIE standard on BSE provided details regarding the disease and conditions for the safe trade of bovine products. Despite the long history of this concern, no Member had ever provided a scientific risk assessment that would justify any deviation from the international standard. The European Union urged, in particular, China, Japan and South Korea to bring their requirements into line with the international standards and the SPS Agreement, and Australia to quickly finalize its assessment process. The recent steps by the United States to align its import conditions with the OIE standard were welcomed,

and a fast implementation of conditions in line with OIE standards is expected. The European Union urged all Members to fully align their BSE-related requirements with the OIE standards and thus establish fair, non-discriminatory, transparent and scientifically justified requirements.

29. Korea indicated its willingness to continue bilateral discussions on this issue.

30. China recalled its cooperation with the European Union, including in 2011 a joint BSE prevention and control training that resulted in a productive exchange on the relevant science and technology, and the standards of the OIE. Although no consensus was reached on certain issues, China would continue to bilateral discussions on the relevant technical issues.

31. Japan reported that it had already started discussions with the European Union, and that its Food Safety Commission Risk Assessment Body was requested in December 2011 to conduct a risk assessment on beef imports from France and the Netherlands. This risk assessment was conducted in a neutral and fair manner on the basis of scientific data. The Food Safety Commission would assess the risk of beef from the other EU member States when the necessary information was verified, including through onsite investigation and collection of data.

(ii) *Chinese Taipei's Prohibition on Ractopamine in Beef and Pork – Concerns of the United States (No. 275)*

32. The United States observed that ractopamine was approved for use in the United States and 25 other countries. The safety of ractopamine had been confirmed by JECFA, which is jointly administered by the FAO and WHO. In 2007, Chinese Taipei had conducted its own risk assessment, based on the scientific evidence and determined ractopamine was safe for use in various meat and meat products. That same year, Chinese Taipei notified its intention to implement MRLs for ractopamine use (G/SPS/N/TPKM/114). However, to date Chinese Taipei had failed to implement this MRL, resulting in significant trade barriers to US exports of meat and meat products. The United States urged Chinese Taipei to immediately implement the MRL it had notified in 2007, and to, along with all Members, ensure that measures were based on science.

33. Canada shared the US concerns. Based on a comprehensive risk assessment, Canada had approved the use of ractopamine in animal production. Although Codex had not yet adopted MRLs for ractopamine, Canada was of the view that the scientific work conducted by JECFA fully supported their adoption. Canada was encouraged by Chinese Taipei's establishment of a cross-departmental task force in early 2012 to consult with stakeholders and to provide expert scientific opinion on ractopamine. To avoid further unnecessary trade disruptions, Canada requested that Chinese Taipei proceed as soon as possible with the adoption of MRLs for ractopamine for meat and meat products as notified to the Committee in 2007.

34. Brazil highlighted its concern that MRLs for ractopamine had not yet been adopted by Codex, despite the technical justifications available regarding the use of ractopamine.

35. Chinese Taipei took note of the remarks, which it would convey to its competent authorities.

(iii) *China's Requirement for Registration and Supervision of Foreign Enterprises – Concerns of India (No. 324)*

36. India expressed concerns with China's notification on the registration of foreign manufacturers of imported food (G/SPS/N/CHN/472). Foreign manufacturers of foods listed in a "Catalogue of Registration of Foreign Manufacturers of Imported Foods" would not be able to export their products to China without registration. India had submitted comments on the notification, requesting information on the issue date of this catalogue, registration fees and processing times.



Although China had indicated that the notified measure was not new, the current process was more stringent than the 2002 regulation.

37. The European Union noted that it had previously raised this concern and had provided written comments to China. While appreciating China's clarifications, the European Union supported India's call for greater clarity and additional information on the process. In particular, certain aspects of the registration process had not yet been outlined nor guidelines provided on the detailed process to be undertaken by exporters of products, with indicative timelines. The European Union urged China to consider provide an appropriate transitional time period for trading partners to follow this new requirement.

38. China explained that the notified measure was an amendment of the General Order No. 16, which was issued and implemented in 2002. The measure was notified to the WTO and comments were received and reviewed by China. The measure provided a regulatory framework similar to the original regulation and only overseas production enterprises listed in this catalogue needed to register in accordance with the requirements. The date of entry into force of the regulation was March 2012 and the official implementation would have a sufficient transitional period. China would take into account India's comments and urged other concerned parties to raise their issues with the designated Chinese department as early as possible in order to facilitate the preparation of a detailed response.

(iv) *Viet Nam's Ban on Offals – Concerns of the European Union and the United States (No. 314)*

39. The European Union expressed its continuing concerns with Viet Nam's ban on imported offals, and particularly white offals. The ban, in place since July 2010, seriously affected EU exports of offal. Although Viet Nam had previously stated that the temporary measure was to protect human health, it had not yet provided a risk assessment. This measure had affected EU exports but there was no indication of any safety problems with EU offals. The ban was neither justified nor proportionate and since there were no similar measures on domestic offal, the measure discriminated against foreign imports. The European Union urged Viet Nam to immediately lift any remaining restrictions on imports of offals.

40. The United States shared the EU concerns and observed that the measure had not been notified nor information provided to trading partners to support the purported safety concerns. While the ban had been lifted on red offal, all other offal products, known as white offal, such as stomachs and intestines, remained banned. Viet Nam was urged to provide a scientific assessment or to immediately lift the ban on all offal.

41. Viet Nam reiterated that the temporary measure was geared at protecting human health from high risks from contaminants, toxins or disease-causing organisms in food. In light of the concerns of trading partners and to facilitate the trade of food products, including offal, Viet Nam had issued a number of documents, such as Food Safety laws, to facilitate the control and regulation of food imports. The ban on red offal had been lifted and the ban on white offal remained because of the lack of a clear definition of offal in international standards. Viet Nam's experts were working in close cooperation with trading partners to clearly define offal and to discuss other related issues in order to find appropriate solutions. However, as a developing country with limited resources, the Vietnamese authorities needed time to collect information for risk assessments. Viet Nam urged interested trading partners to provide relevant information and technical cooperation to facilitate the completion of the research process.

(v) *Japan's Prohibition of Certain Food Additives – Concerns of India (No. 307)*

42. India recalled that in July 2010, Japan had notified the withdrawal of 80 food additives from the *List of Existing Food Additives*, thereby prohibiting their use (G/SPS/N/JPN/255). Although this

list was shortened to 55 additives in February 2011, it includes eight substances currently used by Indian food manufacturers. India remained concerned that food additives were being prohibited on the basis that they were not in use in Japan, despite the fact that they did not constitute health risks. This hindered exports of food containing these substances to Japan without sufficient justification. India recalled that Japan had previously stated that if an application were filed providing evidence that a withdrawn substance was still in use in the Japanese market, the list would be updated. India could provide a list of Members who permitted these substances. Clarification was also sought regarding the database used by Japan in prohibiting these products, and the process for updating the list.

43. Japan explained that it had been waiting for the complete application from India since June 2011. India should apply for approval of the specific substances of interest to its exporters, and Japan was willing to explain the detailed application process in bilateral meetings.

(vi) *China's Quarantine and Testing Procedures for Salmon – Concerns of Norway (No. 319)*

44. Norway reiterated concerns about the new testing and quarantine measures introduced by China in December 2010, directed specifically at fresh, chilled salmon from Norway. These measures were further strengthened in February 2011 by the implementation of AQSIQ Order No. 9 and had led to a dramatic reduction in the volume of Norway's exports of fresh salmon to China. SPS measures should be supported by a scientifically based risk analysis, but to date, Norway had not received a copy of China's risk assessment on salmon. Norway urged China to agree on a date for bilateral consultations at an expert level as soon as possible.

45. The European Union supported the need for transparency and good communication in this matter, and underscored the importance of open and direct contact with trading partners on measures of concern.

46. China clarified that since 2010, the entry and exit inspection and quarantine bureaus in China had detected fish lice, pathogenic micro-organisms and excess chemical residues, among other issues, in imported salmon. To protect consumers and the safety of the Chinese fishing industry, China had strengthened the inspection and quarantine of imported salmon, based on The Administrative Measure for Inspection, Quarantine and Supervision on Import and Export of Feed and Feed Additives, its revision and amendments relating to aquatic products. These had been notified to the WTO. The measures taken were covered by these regulations without any new elements and therefore China had no obligation to further notify. These import inspection and quarantine procedures were not aimed at any particular Member, but quarantine issues were detected in numerous shipments of salmon from Norway. China was willing to adjust the relevant measures once Norway had addressed the quality issues.

(vii) *US Default MRLs, Limits of Determination or Limits of Quantification on Basmati Rice – Concerns of India (No. 328)*

47. India stated that in September 2011, Indian consignments of basmati rice were stalled at US ports for presence of the fungicide Tricyclazole in excess of the prescribed limit. The US tolerance was at the Limit of Quantification, and consignments were being rejected for Tricyclazole residues exceeding 0.01 ppm. India recalled that at the SPS Committee meeting in October 2011, the US authorities had provided a response indicating the lack of tolerances by the US Environment Protection Agency (EPA) for Tricyclazole in rice, and had noted that Codex had not established a maximum residue level (MRL) for Tricyclazole in any food. The United States had further reported that tolerances for rice had been established for three alternative fungicides and encouraged India to use one of those alternatives or work with the EPA to establish a tolerance for Tricyclazole. India argued, however, that under Article 5.1 of the SPS Agreement scientific justification should be provided for fixing any MRL for pesticides and that a Limit of Detection requirement must be

justified. Tricyclazole was registered and used in the European Union, China and Japan for rice, with MRLs of 1 ppm, 2 ppm and 3 ppm, respectively. According to Article 5.7, Members could adopt the standards of other countries when there was no relevant international standard. India urged the Committee to invite the Codex Alimentarius Commission to examine the scientific basis of the US measure, under Article 12.6. US authorities had agreed to bilateral discussions and India urged the United States to allow imports based on the domestic standard of the exporting country, until both countries were able to finalize the MRL based on scientific justification.

48. The United States replied that under the US Food, Drug and Cosmetic Act, a food was deemed adulterated if it contained a pesticide for which there was no Environmental Protection Agency (EPA)-established tolerance or exemption, and food that was adulterated would be refused admission into the United States. Several firms and products had been added to Food and Drug Administration's (FDA) Import Alert #99-08, "Detention without Physical Examination of Processed Foods due to Illegal Pesticide Residues", after FDA found residues of Tricyclazole and other pesticides at unapproved levels in shipments of basmati rice. When a shipment was detained, the importer had the opportunity to demonstrate that the individual shipment did not contain the residue, and the FDA usually accepted private laboratory analysis as evidence that there were no residues. To date, multiple shipments had been released in cases where approved laboratory findings demonstrated compliance with US tolerances, and one firm had been removed from Import Alert. Since the last Committee meeting, more chemicals without US tolerances had been detected in Indian basmati rice shipments into the United States. This raised fundamental concerns as to whether good agricultural practices were in place, rather than indiscriminate use of pesticides. One of the manufacturers of Tricyclazole had submitted a petition to the EPA in February 2011 to establish an import tolerance on basmati rice. The United States encouraged India to continue working with FDA and EPA to address the concerns of the Import Alert, and the presence of Tricyclazole and other pesticides.

49. India reiterated its request under Article 12.6 for the Committee to invite Codex Alimentarius Commission to consider the scientific basis of the US measure, since no standards currently existed in relation to the issue. The Chair stated that India's request under Article 12.6 would require separate consideration and reminded India that the Committee would need to take a decision by consensus on this issue. The Chair invited India to submit its request in writing, for consideration by the Committee at the next regular session. New Zealand asked that India give a detailed account of the background of this issue in its request under Article 12.6.

(viii) *Application and Modification of the EU Regulation on Novel Foods (G/SPS/GEN/1137) – Concerns of Peru (No. 328)*

50. Peru recalled its previously raised concerns about the EU Novel Foods regulation (258/97) that restricted foods which were not marketed in the European Union before May 1997 (G/SPS/GEN/1137). The Regulation did not distinguish between foods and ingredients that were new in the strict sense and traditional products derived from the biodiversity of developing countries. The EU measures were unnecessary and excessive as they applied to products that had a history of safe consumption in other markets and presented no risk for consumer health. Recalling the provisions of the SPS Agreement, Peru urged the European Union to refrain from applying Regulation No. 258/97 to traditional products with a history of safe consumption outside the EU market.

51. Cuba supported the concerns of Peru and indicated that the measure was discriminatory. Colombia also supported Peru's concerns and urged the European Union to accelerate the modification of the regulation on novel foods, highlighting the unnecessary and unjustified effect that the delay was having on the access of traditional products to the EU market. Argentina, Brazil, Chile and Paraguay indicated that they shared the concerns and were closely following the issue.

52. The European Union explained that foods were considered novel under Regulation 258/97 if they were derived from new technological processes or if they had no significant history of consumption in Europe. Revision of the novel foods rules had started in January 2008 in an effort to facilitate applications for novel food authorizations and to simplify EU market access for traditional foodstuffs with a history of safe use. However, the co-legislators had not agreed to the proposed revision and the European Commission was exploring ways to allow a revised novel food regulation to be adopted. The European Union would make public the steps it was taking in this regard. Any new regulation would contain a centralized and quicker authorization procedure for novel foods and specific measures for traditional foods from third countries to access EU markets.

(ix) *China's Hygiene Standard for Distilled Spirits and Integrated Alcoholic Beverages - Concerns of Mexico (No. 278)*

53. Mexico recalled that in February 2009 it first raised its concerns regarding the maximum level established for methanol on alcoholic beverages and the lack of nomenclature classification that could cover tequila in China's hygiene standard for distilled spirits and integrated alcoholic beverages. Mexico had held various bilateral meetings to discuss this issue, and in September 2011 had submitted comments on China's notification G/SPS/N/CHN/377. Mexico requested that the Chinese requirement be modified to reflect the maximum level of methanol permitted under the Mexican Standard for Tequila, 3.0 g/l ethanol 100 AA. This would allow tequila and other beverages produced from agave to access the Chinese market. Studies confirmed that the methanol limits proposed by Mexico did not pose a health risk.

54. The United States supported the concerns raised by Mexico, and requested China to provide a risk assessment to justify the measure, as well as an explanation of the regulation and the expected date of entry into force. The United States also asked China to provide a one year transition period for companies to comply with the regulation once China had provided its risk assessment and had notified the final measure to the WTO. The European Union echoed these concerns, and noted that the measure created unnecessary barriers to trade, and was not based on science.

55. China observed that bilateral meetings had taken place with Mexico and noted that the standard was based on Chinese consumption habits. China would take Members' comments into consideration and keep them informed.

(x) *EU MRLs for Pesticides - Concerns of India (No. 306)*

56. India recalled that it had raised this concern at four previous meetings, and reiterated that no Member should set MRLs without scientific justification. India welcomed the EU MRL for Isoprothiolane in rice, and sought clarification on the status of an import licence application for Tricyclazole by Dow Agro Sciences. India urged the European Union to replace default MRLs for a variety of pesticides, as the default levels of 0.01 mg/kg, meant that imported foodstuffs containing even the smallest trace of pesticides (e.g., Cerbandazim) were banned in the European Union. India requested the scientific justification for fixing any MRLs at the level of detection, and recalled that under Article 12.6 the Committee could invite a relevant international body, such as Codex, to examine the scientific basis of a standard set by the European Union.

57. Pakistan stressed the importance of this issue for developing countries, and expressed hope that it would be soon resolved.

58. The European Union recalled that in September 2008 it had introduced a new legislative framework on pesticide residues (Regulation EC 396/2005) under which many pesticides MRLs had been set at the default level in order not to hinder trade. Trading partners that felt that a higher MRL was necessary should submit an application, with the appropriate scientific justification. The

European Union would set a higher MRL where this was scientifically justified, as had been done for Isoprothiolane, where the MRL in rice had been raised to 5 mg/kg from its default level. This was done on the basis of a scientific opinion from EFSA, which stated that authorized use at that level would not pose a public health concern. The European Union also noted that EFSA strongly recommended that studies be carried out to investigate the effect of processing on the nature of Isoprothiolane residues. Following a decision by the EU member States, it was agreed that the MRL would therefore be fixed on a temporary basis on the understanding that it may be reviewed in the light of the results of the requested study on processing.

*(xi) South Africa's Import Restrictions on Pork Meat - Concerns of Brazil (No. 287)*

59. Brazil recalled that in 2005, South Africa imposed a ban on Brazilian exports of swine and bovine meat due to an outbreak of FMD in some Brazilian states. Brazil had provided information and responded to all questions sent by South Africa, and after intense negotiations, exports of bovine meat were authorized in February 2010. Brazil had held bilateral meetings and had sent four technical missions to South Africa. Although Brazil had answered all questions in relation to the control of swine disease, the repeated questions from South Africa had become a major and unnecessary obstacle to trade. The ban was unjustified as the FMD status of Brazil was higher than that of South Africa, and Brazil requested South Africa to promptly adapt its measures to the requirements foreseen in the SPS Agreement, so that exports of the affected products could resume soon.

60. South Africa stated that the concerns raised by Brazil were important to both countries and that it was committed to solve the issue. Since 2005, South Africa had experienced outbreaks of devastating animal diseases in the pig population, which were costly to eradicate. Porcine, reproductive and respiratory syndrome and classical swine fever had been eradicated from South Africa, which would seek advice from the OIE on how to proceed on certain imports while continuing to ensure the protection of its pig herd health. South Africa was in the final stages of developing an effective health certificate for the import of pork, and remained willing to continue bilateral discussions with Brazil and other interested countries.

*(xii) US Food Safety Modernization Act - Concerns of India (No. 299).*

61. India recalled that in October 2011 it had raised concerns that the US FDA Food Safety Modernization Act (FSMA) put extra burden on exporters, leading to higher transaction costs. India's concerns related to: the registration of foreign facilities; the foreign supplier verification programme; the voluntary qualified importer programme; and certification and audit. Various provisions of the act did not reflect the core principles of equivalence and harmonization, and the United States should ensure the act was in line with the SPS Agreement so as not to affect trade. India urged the United States to communicate the timeframe for the issuance of these regulations, and asked whether the regulations would provide for bilateral mutual recognition agreements that could help Indian exporters access the US market. India also requested information on how much time would be provided to exporters to meet new requirements, as this would require technical assistance and better understanding to ensure all regulations were fully followed. India also requested clarification about the additional costs to exporters for the registration of foreign suppliers.

62. China echoed the concerns of India, and recalled the US document G/TBT/W/349 concerning the use of the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA) and the International Accreditation Forum (IAF) Multilateral Recognition Arrangement (MLA) by central government bodies. China requested confirmation that the US FDA had taken concrete steps to accept test results issued by testing laboratories from exporting Members accredited under the ILAC MRA framework.

63. The United States recalled that it notified FSMA and certain user fee rates in February and October 2011, respectively (G/SPS/N/USA/2156 and addenda). An interim final rule had been notified (G/SPS/N/USA/703/Add.3) to amend FDA's regulation on the record availability requirements. The amendment expands FDA's access authority to records relating to any other article of food that the Secretary of Health Human Services reasonably believes is likely to be affected in a similar manner. Trading partners should submit comments on the notified measures. The United States hoped to soon publish proposed rules relating to preventive controls for human foods and animal feed, produce safety, foreign supplier verification, and third-party accreditation. The FDA would be mindful of the Codex Alimentarius standards, guidelines and related texts, while ensuring FSMA programmes provided the appropriate level of health protection for US consumers.

(c) Consideration of Specific Notifications Received

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

(d) Information on Resolution of Issues in G/SPS/GEN/204/Rev.12

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

## V. OPERATION OF TRANSPARENCY PROVISIONS

66. The Secretariat reported that documents G/SPS/GEN/1127, G/SPS/GEN/1131, G/SPS/GEN/1132, G/SPS/GEN/1133, G/SPS/GEN/1135 and G/SPS/GEN/1140 summarized the notifications received since the last Committee meeting for the months of September, October, November, December, January and February 2011-2012, respectively. A list of all SPS documents issued in 2011 by Members, Observers and the Secretariat was contained in G/SPS/GEN/1136. The list of Members that had not yet identified an SPS National Notification Authority and/or Enquiry Point had been updated in G/SPS/GEN/27/REV.22.

67. The Secretariat recalled that it no longer produced paper copies of the contact lists of National Notification Authorities and National Enquiry Points, but electronic lists were constantly updated and available through the SPS Information Management System (IMS) (<http://spsims.wto.org>). Members should verify the accuracy of the lists of Enquiry Points and National Notification Authorities, to ensure that these would receive important documents and invitations to training activities. The Secretariat would no longer generate the monthly summary list of notifications, as Members could generate such summary lists through the SPS IMS.

68. The Secretariat reminded Members of the system for submission of SPS notifications online. Notification Authorities were invited to request a password to access the system and submit notifications directly on line. The system worked very quickly and Members who often submitted many notifications were particularly encouraged to use it. About 32 Members had already requested a password and 14 Members had actually begun to submit their notifications electronically.

69. Chile observed that the SPS NSS worked well and rapidly, and had helped Chile achieve good results.

70. The Secretariat drew the Committee's attention to the upcoming 2012 October Workshop on Transparency which would focus on the use of the SPS Notification Submission System and IMS. WTO Global Trust Fund funding would be available for approximately 50 officials from LDCs and developing countries, on the basis of applications from NNAs and ENQs, to participate in this workshop.

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

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

## **VII. EQUIVALENCE – ARTICLE 4**

(a) Information from Members on their Experiences

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

(b) Information from Relevant Observer Organizations

73. IPPC indicated that it would start an analytical study on the topic of equivalence. Additional information could be found in G/SPS/GEN/1153.

## **VIII. PEST- AND DISEASE-FREE AREAS – ARTICLE 6 (G/SPS/GEN/1134)**

74. The Secretariat introduced the annual report on the implementation of Article 6 (G/SPS/GEN/1134). The report, covering 2009 through 2011, was based on information provided by Members through notifications and at SPS Committee meetings. The report summarized Members' activities regarding Article 6 on the following categories: (i) requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence; (ii) determinations on recognition of pest- or disease-free areas or areas of low pest or disease prevalence; and (iii) Members' experiences in the implementation of Article 6 and the provision of relevant background information by Members on their decisions to other interested Members.

75. Chile welcomed the annual report, and expressed concerns regarding the implementation of Article 6. Many Members had inefficient systems in place for the recognition of pest- and disease-free areas. For example, there should be an accelerated procedure for the recognition of disease-free areas for the four diseases recognized by the OIE, however, this did not happen in practice. Chile urged Members to not let bureaucracy get in the way of the objectives of Article 6.

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

(i) *Paraguay - FMD Status*

76. Paraguay reported that in September 2011 it notified to the OIE, and other relevant authorities and countries, an outbreak of FMD affecting the department of San Pedro. As a precautionary measure, the National Service of Quality and Animal Health (SENACSA) had banned exports of bovine meat and meat products until the situation had been brought under control. On 30 December 2011, Paraguay had similarly notified a new outbreak of FMD in the department of San Pedro. SENACSA enacted controls following the procedures established by international bodies. Currently, both outbreaks were under control; epidemiological studies had shown absence of viral activity, which had led to the suspension of the sanitary emergency on 16 March 2012. Paraguay thanked the OIE, the Veterinary Committee of the Cono Sur, the Pan-American Centre on FMD and the OIE reference laboratories in Argentina and the United Kingdom, as well as the European Union, for their cooperation in controlling the disease. Paraguay also thanked the veterinary services of Brazil and Russia for re-opening their markets to its products, and Argentina and Uruguay for allowing the transit of products through their territories.

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

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

(c) Information from Relevant Observer Organizations

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

## **IX. TECHNICAL ASSISTANCE AND COOPERATION**

(a) Information from the Secretariat

(i) *WTO SPS Activities*

79. The Secretariat noted that document G/SPS/GEN/521/Rev.7 identified all SPS technical assistance activities undertaken by the WTO from 1 September 1994 to 31 December 2011. G/SPS/GEN/997/Rev.2 provided detailed information about all the SPS technical assistance activities planned for 2012. The 2012 Advanced SPS Course would be held 8 - 26 October 2012 in Geneva in French. The deadline for submission of applications for WTO funding for the advanced course, for the Workshop on Transparency, as well as for three of the four regional workshops was 1 June 2012. The deadline for the regional workshop for Latin America was 10 April 2012.

80. The Secretariat reported that since the last Committee meeting, three national seminars had been held in Samoa, Gabon and Vanuatu, and three regional SPS workshops had been held for French-speaking Africa (in Mali); English-speaking Africa (in Kenya); and Arab and Middle East countries (in Qatar). More general training on the SPS Agreement had been provided to participants in the Introduction Course for LDCs (Geneva) and the Regional Trade Policy Course for Latin America (Colombia).

81. The Secretariat recalled that the E-Learning course on SPS was available all year long in the three WTO official languages. Completion of the E-Learning course was a prerequisite for participation in the Advanced SPS Course, and preference was given to applicants who had completed the E-Learning course in the selection of participants for the regional training events.

82. The Philippines thanked the Secretariat for the prompt response to its request for a national SPS workshop in the coming months. All regulatory agencies from the Philippines would be participating in the workshop.

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

83. The STDF Secretariat reported that the Policy Committee approved the new medium-term strategy 2012-2016 in January 2012. The strategy was based on the need to further promote increased collaboration and interaction among providers of SPS-related technical cooperation, and to continue strengthening the STDF as a knowledge platform for information exchange, sharing of experiences and identification or dissemination of good practices. The Policy Committee agreed on some revisions to the Operational Rules; the major revisions were presented in G/SPS/GEN/1144.

84. In 2012, the STDF would continue work on multi-criteria decision analysis (MCDA) to inform SPS decision making and resource allocation. The objective was to consolidate the initial applications in Mozambique and Zambia, and apply the MCDA tool in one country in Asia. A regional workshop on MCDA would also be organized in Asia.



85. The STDF would also organize a seminar on international trade and invasive alien species, in close collaboration with the OIE and IPPC secretariats. The seminar would be held on 12-13 July 2012, immediately following the next SPS Committee meeting. The seminar should raise awareness on the importance of coherence and dialogue among SPS and environmental institutions at the national level when developing strategies to address invasive alien species, review existing technical cooperation programmes and promote good practices in this area.

86. Other STDF work would examine the links between SPS and trade facilitation. This work will be based on examples of trade facilitation in the SPS area, including activities focused on the standardization of SPS procedures and information systems to facilitate SPS compliance. An STDF study on national coordination mechanisms, with a focus on Africa, will be concluded and published. The study provides practical guidelines for the establishment and operation of a national SPS committee in developing countries. All STDF publications and films are available on the STDF website. Work is under way on the development of the STDF virtual library, which will facilitate the management of all documentation available on SPS capacity building, and should reduce the duplication of work.

87. The STDF secretariat stated that 21 applications for project preparation grants had been received, of which ten applications would be discussed by the Working Group for a funding decision. The next deadline for funding applications was 20 July 2012. Information on how to request funding could be found on the STDF website (<http://www.standardsfacility.org/en/index.htm>) or by contacting the STDF secretariat.

(b) Information from Members

88. The European Union reported on the technical assistance it delivered in 2011 to help developing countries build their capacity to trade their food products (G/SPS/GEN/1139). EU assistance was primarily aimed at facilitating the implementation of SPS measures in developing countries by transferring technical know-how, putting in place infrastructure and giving practical assistance in the field. The European Union also contributed to the Codex, IPPC and OIE, as well as in the STDF. Substantial development assistance was also provided by individual EU member States at a bilateral, regional or multilateral level. Members interested in receiving SPS technical assistance should contact the European Commission or the EU delegation present in their country.

89. Canada reported on the SPS-related technical assistance it delivered to developing countries in 2010 (G/SPS/GEN/1149). Nine SPS-related technical assistance projects targeting various geographic regions, including Central America, South America, the Caribbean and Asia Pacific Region (ACP), and Africa had been delivered or initiated, for a total of approximately Can\$10 million.

90. The United States indicated that the Joint Institute for Food Safety and Applied Nutrition (JIFSAN), established between the US Food and Drug Administration and the University of Maryland in 1997, was accepting applications for a food safety risk analysis integrated summer programme geared towards federal agencies, ministries, academics, trade and consumer groups, among others. Selected participants from around the world would be invited to Washington, D.C., to learn about food safety, risk analysis, management assessment, communication and quantitative risk analysis. JIFSAN would provide course tuition for one applicant. The deadline for applications was 1 April 2012.

(c) Information from Observers

91. IPPC expressed appreciation for the STDF support for a number of IPPC capacity development activities. IPPC was also carrying out various activities in collaboration with IICA and

other entities. The application of the phytosanitary capacity evaluation tool (PCE), which identified the strengths and weaknesses of the phytosanitary capacity of countries, was essential before selecting any project. The IPPC website (<http://www.phytosanitary.info>) provided information on various regional and country-specific projects, and contained resources from both the IPPC secretariat and from countries. It was important to understand the difference between an IPPC technical manual and an IPPC standard, and the newly established trust fund for capacity development aimed at providing clarity on the budget destined to this type of activities. CPM-7 had established a capacity development committee which should be operational as of 2013. Additional information on IPPC technical assistance activities could be found in G/SPS/GEN/1152.

92. Japan welcomed the success of CPM 7 and noted outstanding progress on issues such as the adoption of the strategic framework 2012-2019, the improvement of the IPPC standard-setting process and the establishment of a capacity development committee. Collaboration among IPPC member countries was important in order to mitigate risks of pest incursion, in particular in the context of increasing international trade. Japan considered capacity building for developing countries as essential and welcomed and supported IPPC's initiative in this regard; it would provide US\$150,000 to support activities conducted by the new capacity development committee. Japan would also support the new committee in terms of human resources and encouraged other Members to contribute to such an important initiative.

93. OIE referred to the Invasive Alien Species Workshop organized by the STDF and noted that it had convened an expert meeting in November 2011 on this issue, with the participation of the WTO, the Convention on Biological Diversity and recognized experts. The purpose of the meeting had been to discuss and develop guidance documents for OIE members to assess the risk of non-native animal species becoming invasive. The group successfully drafted the guidelines, which were discussed and endorsed by the Code Commission and the Scientific Commission. The guidelines would be uploaded on the OIE website. OIE also indicated that a veterinary legislation guideline was proposed for adoption at the OIE General Session in May 2012, for inclusion in the Terrestrial Animal health Code.

94. Codex recalled that it did not provide capacity building activities, but participated in events carried out by FAO and WHO, individually or jointly, or by other entities. Codex could report on these activities in future meetings. The Codex website contained useful information on training, such as an e-learning course to improve and enhance participation in Codex.

95. OIRSA reported that it had carried out a specialized national workshop on food safety in Honduras; provided support for a workshop on banana and palm quarantine pests in Mexico; and supported the participation of inspectors from OIRSA member countries in a training course in Spain on fishery product safety. OIRSA had supported regional trade facilitation through a pre-audit in Guatemala on the hygiene and safety of fisheries products (farmed shrimps). With regard to harmonization and equivalence, OIRSA held a fourth technical meeting to review Central American Customs Union regulations (RTCAs) on the sanitary registration of foods and microbiological criteria for food safety and their equivalence with US regulations. OIRSA also granted financial and technical support to the programme to maintain the northern part of Lake Xolotlán in Nicaragua as an area free of the Mediterranean fruit fly. Additionally, OIRSA provided information on its activities relating to prevention, control and eradication, as well as strengthening of national institutions in order to facilitate trade and strategic alliances for the promotion of health and trade (G/SPS/GEN/1148).

96. IICA announced that this year it was celebrating its 70<sup>th</sup> anniversary. Under contract with the IPPC, IICA had developed a new global course on plant pest risk assessment, available in English and Spanish on the IPPC website. This course was the first module of an advanced training programme for plant pest assessment risk consisting of four modules, funded by the Inter-American Development Bank with the participation of the US Department of Agriculture (USDA/APHIS), IICA and IPPC.

The programme promoting the participation of the Americas in Codex committees, developed by the IICA and the USDA in 2009, had been temporarily suspended due to lack of funds, but was expected to be reopened in the second part of 2012. So far, the programme had supported the participation of 21 countries in 16 meetings of nine Codex committees, allowing an effective level of participation in these committees at the national and regional level. Given the results achieved in strengthening the Codex Coordinating Committee for Latin America and the Caribbean, IICA and the US Codex office were developing another project. See G/SPS/GEN/1146 for additional information.

97. ISO highlighted the establishment of a 2011-2015 action plan for developing countries which had six intended outputs: (i) increase participation of developing countries in ISO's technical work; (ii) build capacity of ISO members and stakeholders; (iii) raise awareness on the benefits of international standards; (iv) institutional strengthening; (v) increase of regional cooperation; and (vi) introduction to standardization into the educational curricula of universities and schools. ISO also highlighted two regional seminars, the first on fisheries food safety held in Indonesia in September 2011 in cooperation with FAO, Codex, OIE and the GFSI, and an upcoming workshop in Kenya on 24 April 2012 involving expertise from Codex and the OIE.

98. IPPC thanked ISO for providing its comments during the review of the IPPC's standard-setting process. IPPC noted that it was important to recall that ISO standards were not necessary for the implementation of the international standards recognized under the SPS Agreement.

99. SADC reported on the implementation of the SPS Annex to the SADC protocol on trade, which derived its basis from the SPS Agreement. An EU-funded project on food safety capacity building and residue control had officially closed on 15 March 2012. The overall objective of the project was to promote regional trade, regional integration and greater access by SADC exporters to EU and world markets for agricultural products. The purpose of the project was to harmonize food safety control regulations, guidelines and procedures in conformity with international requirements in order to increase exports while complying with food safety requirements. There were five main project outputs: (i) food safety regulatory frameworks at national and regional levels; (ii) regulatory frameworks for registration and quality control of crop protection products and veterinary drugs at national and regional levels; (iii) analytical capability of national and regional laboratories strengthened and assistance towards accreditation provided; (iv) enhanced coordination and communication between national and regional authorities involved in regulatory frameworks on SPS relevant issues; and (v) establishment of a network of SPS specialists. The guidelines for the regulation of food safety, and for the regulation of crop protection and veterinary drugs registration, had been approved by the Ministries of Agriculture, along with a generic model for the establishment of national committees. The European Union would continue to support SADC's SPS programme through the European Development Fund. SADC also noted that this year it would hold the second meeting of the SADC SPS coordinating committee.

100. Pakistan drew the Committee's attention to the devastating effects that wheat rust, a plant pathogen, could have on food security worldwide. Pakistan requested clarification from IPPC on whether a global monitoring system existed, and how it operated. Technical assistance was required to tackle this pathogen, considered by various scientists as a threat for food security. It was now at the doorstep of South Asia, with the possibility to spread to China and Australia.

101. IPPC responded that although pest reporting was an obligation under the IPPC convention, it was not well implemented. Some plant pests could have big impacts on food production and a global surveillance system was needed. The Secretariat referred to the Committee's recommendation on joint work by Codex, IPPC and OIE on cross-cutting issues adopted in October 2011, and suggested that IPPC collaborate with OIE to see how the latter had managed to encourage notifications of animal diseases. The OIE noted its willingness to cooperate with IPPC on how to encourage timely

notifications. OIE was continuously conducting training of national focal points responsible for disease notifications.

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

(a) Issues Arising from the Second Review (G/SPS/W/259)

(i) *Use of Ad Hoc Consultations – Report on Informal Meeting*

102. The Chairperson provided an oral report of the informal meeting on the use of ad hoc consultations held on 26 March 2012. At the informal meeting the Chair had recalled that prior to the October 2011 meeting, the Secretariat had been asked to prepare a revision of document G/SPS/W/259, which reflected the various proposals and comments received from Members. In October, the Committee had begun a detailed discussion of this revised document, G/SPS/W/259/Rev.1. At the end of the October meeting, the Committee had finished discussing the preamble and the beginning of the text, up to paragraph 5, when time ran out. The Chairman had requested that the Secretariat reflect the outcome of those discussions in a new version of the document, which had been circulated with the symbol G/SPS/W/259/Rev.2. This revised document had been the basis for the work at the informal meeting on ad hoc consultations on 26 March 2012.

103. Several Members had made further comments with respect to the title, preamble and the beginning of the text, up to paragraph 5. Discussion took place on paragraphs 5 to 16 of the document. However, Members had mostly expressed their preference for one set of alternative phrases or another, and did not reach consensus on these paragraphs. As such, the next revised document would look very similar to the previous one.

104. Based on these discussions, the Secretariat had been asked to produce a new revision of the document that reflected the outcome of the informal meeting on ad hoc consultations, up to paragraph 16. At least one Member had indicated that they would submit proposals to merge some paragraphs. These and any other proposed changes to the text should be submitted to the Secretariat by 15 May, and would be included in the new revision. The revised version of G/SPS/W/259 would be the basis for work at the next informal meeting, to be held on the margins of the July 2012 meetings.

105. The Chairperson had encouraged Members with differing views to meet before the next meeting to seek solutions on the five main areas that were to be resolved regarding this procedure, namely: (i) the nature of the procedure – whether mandatory or voluntary; (ii) issues regarding transparency and confidentiality; (iii) the role of the facilitator; (iv) timeframes for each stage of the procedure; and (v) the relationship between the procedure for the SPS Committee and other initiatives which were on-going in the context of the Doha negotiations. The Chairperson emphasized that it would be very difficult for the discussions to progress without the dedicated efforts of Members to find a common view on the procedure before the next meeting.

106. In commenting on the report of the informal meeting, Chile proposed the creation of an electronic working group, that could be composed of representatives from Argentina, the European Union, India, Switzerland and the United States, and led by either the Chairperson or the Secretariat, with the purpose of resolving differences. Chile suggested that the electronic working group would facilitate communication with capital-based officials.

107. India, echoed by Brazil, proposed holding intercessional discussions instead. The Chairperson noted her availability and that of the Secretariat to assist Members in whatever manner they preferred.

(b) Issues Arising from the Third Review (G/SPS/GEN/1086)

108. The Secretariat drew attention to two documents related to actions that had been undertaken on issues identified in the Third Review, namely: (i) the Decision of the Committee on Joint Work by Codex, IPPC and OIE on Cross-Cutting Issues (G/SPS/58); and (ii) the Summary Report of the Workshop on SPS Coordination at the National and Regional Levels held on 17 October 2011 (G/SPS/R/65).

(ii) *Report on the Informal Meeting*

109. The Chairperson reported on the informal meeting of 26 March 2012 on issues arising from the Third Review of the Operation and Implementation of the SPS Agreement. At the informal meeting, the Chairperson had recalled that at the March 2010 meeting, the Committee had adopted the report of the Third Review, contained in G/SPS/53. The report identified several issues where the Committee had agreed to further work.

110. In October 2010, Members had agreed to prioritize three issues for further work: (i) cooperation between the SPS Committee and the Three Sisters; (ii) improving the procedure for monitoring the use of international standards; and (iii) control, inspection and approval procedures (Article 8 and Annex C). The purpose of the informal meeting on 26 March 2012 had been to discuss these three issues, however, no new proposals had been submitted.

111. On cooperation between the SPS Committee and the Three Sisters, Japan had recalled the recommendation from the October 2011 workshop on national and regional coordination, that the Committee develop guidelines or a manual of good practices on coordination. The Secretariat had drawn attention to the STDF study of various national coordination mechanisms in Africa (a summary of which could be found in the STDF Briefing No 8) and had suggested that Members consider whether this study could serve as a basis for the guidelines or manual on good practices.

112. The Secretariat had also noted other activities that responded to a number of recommendations that had been referenced in the Third Review, namely:

- The provision by the Three Sisters of information regarding their strategic planning, and in particular the information provided by the IPPC on its strategic plan at the current meeting; and the OIE report (G/SPS/GEN/1141) highlighting decisions to be taken at its General Session in May. Codex had also indicated that it would provide information on its new strategic plan, currently under development, at the July meeting.
- The continuation of joint technical assistance activities with the Three Sisters in the SPS regional workshops scheduled for 2012, although expansion of joint activities was difficult due to budget cuts in WTO technical assistance.
- The dissemination of information regarding the activities of the Three Sisters, and in particular the IPPC video, which had been shown outside the meeting room.

113. On improving the procedure to monitor the use of international standards, the Chairperson had invited Members to provide explanations for their lack of use of the current agenda item on monitoring international standards.

114. With respect to control, inspection and approval procedures (Article 8 and Annex C), Members had been invited to share information on their experiences, as done by the European Union in June 2011, through the submission of documents regarding their own procedures.

115. The Chairperson had concluded the informal meeting by noting that if Members submitted specific proposals on these three issues by 15 May 2012, an informal meeting in July could be envisaged. However, in the absence of any new inputs, there would be no reason to hold such a meeting.

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

(a) New Issues

(i) *SPS Measures and International Standards, Guidelines and Recommendations: Joint Communication from Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, New Zealand, Paraguay, Peru, Philippines and the United States*

116. Brazil briefly introduced a joint submission on SPS Measures and International Standards, Guidelines and Recommendations on behalf of the co-sponsors (G/SPS/GEN/1143/Rev.2). The document raised concerns with the increase in the number of SPS measures that were not based on international standards, guidelines and recommendations or that had inadequate scientific justification. These measures often unduly restricted trade and appeared to be associated with objectives not deemed as legitimate under international trade rules. Given these concerns and in order to fulfil the objectives of the SPS Agreement, the submission aimed at reconfirming: (i) the need for science-based international guidelines, standards and recommendations; (ii) the need to support and strengthen confidence in SPS international standard-setting bodies; and (iii) the need for sanitary and phytosanitary measures which resulted in a higher level of protection than would be achieved by measures based on the relevant international standards, guidelines and recommendations to be established on the basis of science.

117. Argentina, Australia, Canada, Chile, Colombia, Costa Rica, the European Union, Mexico, Paraguay, the Philippines, New Zealand, South Africa and the United States all supported the communication and in particular the importance of elaborating standards based on science. Argentina emphasized that this issue particularly affected developing countries and small producers. Chile recalled its proposal to improve the manner in which the Committee monitored the process of international harmonization referred to in Article 3.5. The Philippines stressed the importance of complying with the principles of the SPS Agreement to limit loss of consumer confidence and of suppliers' credibility following an outbreak. The United States referred to other factors such as consumer preferences, which should not be taken into consideration in the elaboration of international standards. The European Union drew attention to its strong support of the three standard-setting bodies and of the importance it attached, as the world's largest importer and exporter of agricultural products and foods, to food safety.

118. India requested clarification on the issue of consumer preferences and referred to Article 13 of the SPS Agreement and the need for Members' to ensure that non-governmental bodies also complied with the Agreement.

119. The IPPC reported on the Implementation Review and Support System (IRSS), put in place in 2011 with support from the European Union (G/SPS/GEN/1153). The IRSS facilitated the analysis and review of standards' implementation. A Helpdesk facility, which included frequently asked questions, had been developed. In addition, a global series of IRSS workshops had been conducted to review implementation and the resulting recommendations were being considered. The IRSS had led to the activation of the dispute settlement mechanism, and was expected to bridge all activities under the IPPC framework.

(b) Issues Previously Raised

120. No Member or observer organizations provided further information on any of the issues previously raised under this agenda item.

**XII. CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS (G/SPS/55, G/SPS/W/256, G/SPS/W/261, G/SPS/W/265)**

(a) Report on the Informal Meeting

121. The Chairperson provided an oral report of the informal meeting on the agreed actions with respect to SPS-related private standards and other identified actions, held on 27 March 2012. At the informal meeting, the Chairperson had recalled that at the October meeting of the Committee, Members had been invited to (i) submit specific proposals on a working definition of SPS-related private standards by 13 January 2012, and (ii) comment on the proposed definitions received and submit proposals on the implementation of Actions 2 to 5, by 10 February 2012. The proposed working definitions had been compiled and circulated electronically by the Secretariat on 23 January 2012. Comments on the proposed working definitions and proposals on the implementation of Actions 2 to 5 had also been compiled and circulated electronically on 23 February 2012.

122. At the informal meeting, the Secretariat had introduced the compilation documents as well as the draft working definition in document G/SPS/W/265, which was based on the proposals and comments by Members. The Chairperson had invited the Committee to first discuss the draft proposed working definition and the additional elements identified by Members.

123. These discussions had been very constructive, and the Chairperson had asked the Secretariat to prepare and circulate a revised draft of working document G/SPS/W/265 to reflect the comments made, for consideration by the Committee at an informal meeting to be held on the margins of the July 2012 meetings.

124. Regarding the implementation of Actions 2 to 5, China had proposed that their implementation be advanced at the same time as the discussions of a working definition of SPS-related private standards.

125. On Action 2, it had been noted that mechanisms to exchange information between the SPS Committee and the Three Sisters were already in place, and functioning. The Three Sisters had the opportunity to provide relevant information under various agenda items at meetings of the SPS Committee. Likewise, WTO staff attended Codex, IPPC and OIE meetings and provided information on relevant developments in the SPS Committee.

126. With regards to Action 3, some Members had been of the view that the Secretariat could report on developments in other WTO fora concerning private standards on an ad hoc basis, while others had preferred to have a standing agenda item. The Secretariat had indicated its willingness to provide information on the occasional discussions in the TBT and Trade and Environment committees on private standards.

127. New Zealand had noted that the implementation of Action 4 was up to individual Members. Argentina had suggested that it could be useful if Members would inform the Committee of any relevant actions they had taken, under the agenda item on "Information on relevant activities" or under "Concerns with private SPS-related standards".

128. On Action 5, New Zealand had highlighted the importance of the word "explore", and had observed that the implementation of this action had to be considered in light of current budgetary constraints.

129. Under other matters, ISO had informed Members that a brochure on international standards and private standards had been published and was available on their website. The IPPC had indicated that private standards had not been identified as a problem in the plant health area, and that it would not undertake work on this matter unless its governing body included the issue in its work programme and additional resources were available.

130. Chile had welcomed additional cooperation with the Three Sisters, given the complexity of the issue and limited governmental resources. Also, increased participation of private entities as observers in the meetings of the Three Sisters would help with implementing science based standards.

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

131. The Chairperson recalled that at the last meeting the Secretariat presented a background document (G/SPS/GEN/1112), which described the working procedures of the SPS Committee regarding the granting of observer status, and categorized the organizations requesting observer status in the SPS Committee at that time. The Secretariat indicated that observer organizations had been reminded that according to the existing criteria, an observer organization would lose its status if it did not participate in a meeting of the Committee within a 12-month period of time. Four out of the eleven ad hoc observer organizations had responded that they would participate in the March 2012 meeting, however these were not the same four organizations actually attending the meeting. Also, the Asian and Pacific Coconut Community (APCC), the Standardization Organization of the Cooperation Council for the Arab States of the Gulf (GSO) and the Office international de la vigne et du vin (OIV), whose outstanding requests were rather dated, had been invited to reaffirm their interest and provide an updated background document. Interest was reaffirmed by APCC and GSO, but only the latter had submitted updated information as requested. The Convention on Biological Diversity (CBD), another long standing applicant, had reaffirmed its interest in 2011.

#### **(a) Ad hoc Observers**

132. The Committee agreed to invite all of the ad hoc observers to participate in the next Committee meetings, both formal and informal.

#### **(b) New or Renewed Requests - Gulf Cooperation Council Standardization Organization (GSO) (G/SPS/GEN/121/Add.3/Rev.1)**

133. The Secretariat outlined the renewed request from the Gulf Cooperation Council Standardization Organization (GSO) as contained in GEN/121/Add.3/Rev.1: Yemen had been added to the list of members.

#### **(c) Outstanding Requests (APCC, AU, CABI, CBD, CITES, COMESA, ECCAS, ICCO, IGAD, OIV)**

134. The Chairperson proposed that substantive discussions on the 11 outstanding requests for observer status be scheduled for an informal meeting on the margins of the next regular meeting. New Zealand noted that the proposed meeting could also provide an opportunity to consider guidelines regarding the role of observer organizations, as discussed during the previous meeting of the Committee. The European Union supported both the proposal of organising the informal meeting in July and of considering the development of guidelines on the role of observers.



135. The Chairperson requested the Secretariat to prepare a background document and an agenda to be circulated in anticipation of the July meeting. New Zealand and other Members were invited to submit their comments and views on the role of observers in advance, to facilitate the discussions.

136. The Committee considered the African Union's (AU) request for observer status, recalling that a large number of delegations had very strongly supported it at the previous meeting. Canada expressed its support for applications for observer status for organizations whose work impacts directly on the SPS Committee. However, based on the background information currently provided by the AU (G/SPS/GEN/121/Add.14), Canada was not in a position to support the AU. Canada requested that the Secretariat solicit additional information from the AU that clearly articulates the relationship between the AU and the SPS Committee, and allows for a better understanding of its relationship with the African Regional Economic Communities (RECs).

#### **XIV. OTHER BUSINESS**

137. No issues were raised under this agenda item.

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

138. The Secretariat flagged that the dates for the next meeting of the Committee had been slightly changed: the regular meeting of the Committee would be held on **10 and 11 July**. Informal meetings on ad hoc consultations, private standards and observers would be scheduled on 9 July 2012. The informal meetings on ad hoc consultations and on private standards were open for participation by observer organizations, however the informal meeting on observers was not.

139. An STDF seminar on international trade and Invasive Alien Species would be held on 12-13 July. The SPS Committee meeting was scheduled to immediately follow the Codex Alimentarius Commission meeting in Rome to facilitate participation of delegates in both meetings.

140. The Committee agreed to the following tentative agenda for its next meeting:

1. Adoption of the agenda
2. Election of the Chairperson
3. Information on relevant activities
  - (a) Information from Members
  - (b) Information from the relevant SPS standard-setting bodies
4. 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.12
5. Operation of transparency provisions
6. Implementation of special and differential treatment
7. Equivalence – Article 4
  - (a) Information from Members on their experiences
  - (b) Information from relevant Observer organizations
8. 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
- 9. Technical assistance and cooperation
  - (a) Information from the Secretariat
    - (i) WTO SPS activities
    - (ii) STDF
  - (b) Information from Members
  - (c) Information from Observers
- 10. Review of the Operation and Implementation of the SPS Agreement
  - (a) Issues arising from the Second Review
    - (i) Use of ad hoc consultations – Report on informal meeting
  - [(b) Issues arising from the Third Review]
- 11. Monitoring of the use of international standards
  - (a) New issues
  - (b) Issues previously raised
  - (c) Adoption of annual report
- 12. Concerns with private and commercial standards
  - (a) Report on informal meeting
- 13. Observers
  - (a) Information from Observer organizations
  - (b) Request for observer status
    - (i) Ad hoc Observers
    - (ii) New requests
    - (iii) Outstanding requests
- 14. Other business
- 15. Date and agenda of next meeting

141. The Secretariat noted that agenda items 4 (c) and 10 (b) would be included in the proposed agenda only if a Member raised an issue.

142. Members were asked to take note of the following deadlines:

- For applications to participate in the Latin America Regional workshop (co-organized with the Inter-American Development Bank – IDB): **Tuesday, 10 April;**
  - Any comments on ad hoc consultations and issues arising from the Third Review must be provided before: **Tuesday, 15 May;**
  - For applications to participate in WTO funded activities, including the transparency workshop, the Advanced Course on the SPS Agreement, and three Regional workshops: **Friday, 1 June;**
  - For requesting the inclusion of items on the agenda: **Thursday, 28 June;**
  - For the distribution of the Airgram and the circulation of documents for discussion during the July meeting: **Friday, 29 June.**
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