



**Committee on Sanitary and Phytosanitary Measures**

**SUMMARY OF THE MEETING OF 16-17 MARCH 2016**

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## **1 ADOPTION OF THE AGENDA**

1.1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its 65<sup>th</sup> regular meeting on 16-17 March 2016. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/SPS/8).

## **2 INFORMATION ON RELEVANT ACTIVITIES**

### **2.1 Information from Members**

#### **2.1.1 Senegal – Creation of a national SPS committee and update on market access issues (G/SPS/GEN/1451 and G/SPS/GEN/1473)**

2.1. Senegal informed Members of the establishment of a national committee on sanitary and phytosanitary measures (CN-SPS) as outlined in G/SPS/GEN/1451. The aim of such mechanism was to monitor the implementation of the SPS Agreement and to serve as a framework for consultation and information sharing on the three standard-setting organizations. Senegal further elaborated that the CN-SPS would be coordinated by the Directorate of Plant Protection (PNI/SPS), assisted by the OIE and Codex contact points. Four sub-committees had been created to deal with SPS notifications among others.

2.2. Senegal also provided an update on market access issues for mangoes to enter the Lebanese and Tunisian markets and for cherry tomatoes to enter the Russian market, as outlined in G/SPS/GEN/1473. Senegal reported on efforts undertaken in the mango sector which had allowed increasing its exports to the European Union, among others. Senegal thanked the Russian Federation for their efforts to try solving this issue bilaterally, and the AU-IBAR for their assistance.

#### **2.1.2 Australia – Update on BSE country assessments**

2.3. Australia provided information on the BSE food safety risk assessment completed for Japan by Food Standards Australia New Zealand (FSANZ). FSANZ concluded that effective controls for BSE were in place and there was a negligible food safety risk from beef products exported from Japan. FSANZ's assessment meant that retorted (heat-treated shelf-stable) beef products derived from cattle born, reared and slaughtered in Japan would be able to access the Australian market. Australia noted that fresh beef (chilled or frozen) would not be permitted for importation until the Department of Agriculture had completed an assessment of the biosecurity risks for animal diseases other than BSE.

#### **2.1.3 Russian Federation – Possible scenario on African swine fever spread in the Eurasian region**

2.4. The Russian Federation provided an update on the spread of African swine fever (ASF) in the Eurasia region, noting that several ASF cases had been reported in 2016. The high density of the wild boar population alongside small-scale pig production with low biosecurity levels and improper disposal methods of ASF-infected carcasses by veterinarians were contributing factors. The Russian Federation also noted the several expansions of the European Union's quarantine borders as a result of the rapid spread of ASF, while highlighting concerns with the effectiveness of the anti-epidemic measures recommended by the European Commission to contain the outbreaks and eliminate the factors of disease spread. The Russian Federation indicated that the infected EU member States did not use a common tool to control ASF and that the measures taken by the regulatory agencies to control the disease significantly differed from each other. The Russian Federation further expressed its concern at the potential serious threats of outbreaks in Germany and the number of outbreaks in the Baltic States and Ukraine, which posed a threat to biosafety in neighbouring countries. The Russian Federation expressed a special concern regarding the absence of Ukrainian services in the Global Framework for the progressive control of Transboundary Animal Diseases (GF-TADS) Working Group meeting held in Moscow that aimed to summarize experiences of all ASF affected countries. The Russian Federation indicated that the measures taken by the Federal Service for Surveillance in Healthcare (Roszdravnadzor) effectively prevented ASF in Russia and the Eurasian Economic Union. The Russian Federation urged Members to come up with approaches to ensure the biological safety of the pork industry.

2.5. The European Union reiterated its view that the use of this agenda item for purposes other than providing information to Members on relevant activities was inappropriate and stated that, because of the ongoing dispute settlement case, it would not respond to the Russian Federation's allegations. The European Union recalled some of the information previously presented to the Committee, highlighting that the European Union had applied regionalization in accordance with OIE principles. Moreover, the European Union stated that the effectiveness of its measures had been demonstrated by the limited geographical spread of the disease in terms of distance from the source and by the occurrence of all new findings of the disease within the restricted areas covered by regionalization measures. The European Union further informed the Committee that a 2015 report of the European Food Safety Authority (EFSA) had confirmed the appropriateness of the EU measures. The European Union indicated that it was currently reviewing its strategy for wild boar management and updating its biosecurity requirements in order to incorporate the latest scientific findings of the EFSA report. All relevant information was available on the website of the Commission Services. Finally, the European Union called on other Members to show the same level of transparency and reiterated its commitment to work collaboratively with all trading partners, in a transparent manner, to control the spread of ASF.

2.6. Ukraine clarified that its experts followed the GF-TADs Working Group meeting held in Moscow via video conference and expressed continued concern for the ASF affected countries.

#### **2.1.4 Ukraine – Update on the African swine fever situation**

2.7. Ukraine provided an update on its engagement in ASF surveillance, containment and elimination. Ukraine reported several registered cases, with the most recent outbreak in January 2016. These outbreaks were attributed to privately-held household pigs, wild boar and infected slaughterhouses. Ukraine authorities had developed a monitoring programme to enhance laboratory control and prevent the pathogen's spread, and had undertaken depopulation measures. Furthermore, Ukrainian technicians had participated in a diagnostic training in an OIE reference laboratory in Madrid, Spain. A critical feature of the newly developed monitoring programme was the introduction of zoning and regionalization in accordance with OIE guidelines, and the emphasis on raising public awareness, particularly for small household holdings. Ukraine was in the process of re-organizing its health and safety services and expressed its commitment to continue cooperating with the European Union and OIE.

2.8. The Russian Federation noted that in accordance with scientific information, the ASF outbreak in Ukraine was much bigger than those in the rest of Europe and the Russian Federation. There was limited evidence of wild animal surveillance and sampling in regard of the large population of wild animals. The Russian Federation implied that the registration of outbreaks in previously disease-free areas in Ukraine was a possible consequence of such surveillance and stated that an ineffective approach would lead to a flare-up of ASF in the south of Eastern Europe in the near future.

2.9. Ukraine clarified that the implemented monitoring programme had been created with the assistance of EU experts and that the Russian Federation forecast for the disease spread was not supported by statistical facts.

#### **2.1.5 European Union – New EU Legislation on Novel Foods (G/SPS/GEN/1472)**

2.10. The European Union highlighted some of the improvements introduced by the new Regulation 2015/2283 on novel foods adopted on 25 November 2015, described in more detail in G/SPS/GEN/1472. The new rules would apply from 1 January 2018 and would streamline the authorization procedure, which would be simplified for traditional foods originating in countries outside of the European Union. The EFSA would carry out the safety evaluations and had launched an open consultation on two guidance documents – one for preparation and presentation of applications for authorization of novel foods and the other for notifications of traditional foods from non-EU countries. The European Union invited all interested parties to examine the draft documents and submit their comments by 21 April 2016. EFSA would also organize a meeting on 11 April 2016 in Brussels to comment on both documents. Lastly, the European Union thanked all the delegates who attended the EU novel foods information session and extended its commitment to cooperate and discuss the EU regulation on novel foods with all interested Members.

2.11. Peru stated that it had been interested in this issue for many years and would address it again in the future. At its request, the European Union agreed to share the presentations made during the information session via the Secretariat.

### **2.1.6 United States – Update on implementation of the Food Safety Modernization Act**

2.12. The United States provided an update on the Food and Drug Administration (FDA) Food Safety Modernization Act (FSMA). Five of the seven key FSMA rules had been finalized and three had been notified to the WTO in November 2015 as G/SPS/N/USA/2503/Add.6 (Product Safety Rule), G/SPS/N/USA/2569/Add.3 (Foreign Supplier Verification Programme) and G/SPS/N/USA/2570/Add.4 (Accredited Third Party Certification). These rules were shaped by extensive outreach including public comments, inputs from trading partners and foreign producers, among others, to devise a flexible and targeted approach to food safety. The United States recalled that it had notified the proposed rules in 2013, subsequently extended the comment periods and provided briefings on the margins of the SPS Committee meeting. The final rules reflected the amendments made to the original proposed rules, thus illustrating the importance of stakeholder inputs, including the public comment process.

2.13. Firstly, the United States elaborated on the Product Safety rule, which would establish mandatory science-based standards for growing, harvesting, packaging and holding produce on domestic and foreign farms for human consumption. Secondly, the Foreign Supplier Verification Programme would establish risk-based requirements for importers to ensure similar levels of food safety requirements and public health protection between imported and domestic foods. Thirdly, the Accredited Third Party Certification Programme would establish a voluntary programme to accredit governments and third parties to audit and certify foreign facilities complying with FDA food safety standards. In addition to the three rules, the FDA had finalized the Rules for Preventive Controls for Human Food and for Animal Feed, both notified to the WTO in September 2015 and aimed at modernizing current good manufacturing practices for food and feed facilities.

2.14. The United States noted that the two remaining proposed rules regarding Sanitary Food Transportation and Intentional Adulteration would be finalized in 2016. The FDA had also set phased compliance dates, depending on the size of the business, in order to give industry time to comply. This compliance process would take place between late summer of 2016 and late 2019. The United States informed the Committee that questions could be submitted online to the FSMA Technical Assistance Network. More information on FSMA was available from the FDA website: <http://www.fda.gov/fsma>. Finally, a public meeting would be held on 23 March 2016 in College Park, Maryland on import implementation, which could be attended in person or via webinar.

### **2.1.7 Japan – Update on the situation surrounding Japanese food after the Fukushima Daiichi nuclear power plant accident**

2.15. Japan provided an update on the developments since the last SPS Committee, highlighting the latest assessment by the International Atomic Energy Agency, according to which the situation remained stable. Japan reiterated its commitment to ensure food safety, recalling that products exceeding regulatory limits had drastically decreased between 2012 and 2014, and had always been under the Codex guideline level. Japan expressed its appreciation to the Plurinational State of Bolivia, Egypt, the European Union, Iceland, Lichtenstein, Norway, Switzerland and the United States for either lifting or easing import restrictions. The European Union had used "no non-compliance for two consecutive years" criteria for products from the Fukushima prefecture and occurrence data for the fourth growing season for other prefectures. The United States had aligned its measures with that of Japan's restrictions for the domestic market at the prefecture level. By sharing these examples, Japan hoped that more Members would follow and begin lifting the remaining import bans.

### **2.1.8 Russian Federation – Cooperation with the Codex Alimentarius Commission**

2.16. The Russian Federation provided an overview of recent activities undertaken in cooperation with Codex. There had been an increased participation of Russian experts in working groups and expert bodies as well as in the development of standards in recent years. The Russian Federation had hosted two Codex events – the Committee on Contaminants in Food (CCCF) in April 2013 and the Coordinating Committee for Europe (CCEURO) in September 2015. In February 2016, it had



also submitted a state policy report on healthy nutrition to FAO. The Russian Federation highlighted the importance of Codex and expressed its willingness to continue collaborating on the development of standards and on improving the Codex system. The Russian Federation would continue to inform the Committee of relevant Codex activities.

#### **2.1.9 Indonesia – Update on Regulation No. 04/2015 concerning food safety control of fresh food of plant origin**

2.17. Indonesia provided an update on its Regulation No. 04/2015 on Food Safety Control on Importation and Exportation of Fresh Food of Plant Origin, notified under G/SPS/N/IDN/94 and implemented on 17 February 2016. Indonesia had granted food safety control system recognition to Australia, Canada, New Zealand and the United States. Applications for recognition received from Argentina, China, Ecuador, France, India, Japan, Korea, Mexico, Philippines, South Africa, the Russian Federation, and Thailand were currently under review.

2.18. Indonesia also reported that Argentina, Belgium, Chile, Ecuador, Egypt, India, the Republic of Korea, Netherlands, Pakistan, Peru, South Africa, Thailand, Tunisia, Ukraine, and Viet Nam had completed the registration of their food safety testing laboratories. Members that were still in the process of acquiring such registration were Austria, Japan, Malaysia, Mexico, the Russian Federation, and Turkey. Indonesia reaffirmed its commitment to facilitate Members' implementation of the regulation.

#### **2.1.10 Ecuador – Publication of the Guide to the Application of the General Regulation on the Promotion and Regulation of Organic-Ecological-Biological Production in Ecuador (G/SPS/GEN/1469)**

2.19. Ecuador informed Members on the publication of the Guide to the Application of the General Regulation on the Promotion and Regulation of Organic-Ecological-Biological Production in Ecuador by the Ecuadorian Agency for Agricultural Product Quality Assurance (AGROCALIDAD) as outlined in G/SPS/GEN/1469. Ecuador aimed to promote a better understanding of this standard among domestic producers and countries interested in biological or organic Ecuadorian products. Ecuador encouraged Members to review the document and provide comments.

2.20. The European Union noted that organic production did not fall under the scope of the SPS Agreement.

#### **2.1.11 Ecuador – New phytosanitary export certificate format (G/SPS/GEN/1467)**

2.21. Ecuador informed the Committee that a new format for phytosanitary export certificates entered into force on 4 January 2016 as outlined in G/SPS/GEN/1467. Phytosanitary certificates issued in the old format would remain in effect until 10 March 2016, after which date only new-format phytosanitary certificates would be valid. Ecuador encouraged Members to become familiar with the new format and to submit any enquiries to [relaciones.internacionales@agrocalidad.gob.ec](mailto:relaciones.internacionales@agrocalidad.gob.ec).

#### **2.1.12 Indonesia – Field verification of Chile's Mediterranean fruit fly status**

2.22. Indonesia extended its appreciation to Chile's NPPO for its support in facilitating a field verification visit concerning the status of Mediterranean fruit fly and acknowledged Chilean eradication efforts. Indonesia had been declared free of Mediterranean fruit fly and therefore was taking precautionary measures for imports.

2.23. Chile thanked Indonesia for providing information on this issue. Chile had raised an STC on this topic and felt discussions were moving in the right direction.

#### **2.1.13 Zambia – New website of the NPPO**

2.24. Zambia acknowledged the technical and financial support that had been provided by all cooperating and development partner organisations in plant health, and in particular, the African Unions and AU-IBAR in supporting its participation in the meeting. Zambia reported that its NPPO had launched its website (<http://www.pqpsz.gov.zm/>). Through this website, all stakeholders

would be able to access phytosanitary information and download any plant health application forms related to agriculture and trade.

#### **2.1.14 Turkey – Update on good practices to reduce product loss and control of animal diseases**

2.25. Turkey provided updates on its efforts to reduce product loss and to control animal diseases. First, on product loss reduction, Turkey outlined on-going integrated pest management controls, surveys, pre-harvest pesticide controls in fresh-fruit and vegetable production, a pilot control project for Mediterranean fruit fly, electronic forecasting and alert systems in apples and viticulture, and prudent use of pesticides. Second, on the control of animal diseases, recent work carried out by the Ministry of Food, Agriculture and Livestock, in charge of animal health and veterinary services, included a project on oral vaccination and rabies control, electronic identification of sheep and goats, preparation of veterinary services, and the foundation of vaccine production centres. A strategic plan for FMD had been prepared and was currently being implemented to ensure free status in specific regions. Similar plans would be developed in the years ahead.

2.26. Before moving on to the next agenda item, the Chairperson reminded Members that the purpose of Agenda Item 2 was to share information; specific trade concerns should be raised under Agenda Item 3.

### **2.2 Information from the relevant SPS standard-setting bodies**

#### **2.2.1 CODEX**

2.27. Codex provided an overview of recent and upcoming events. The Committee on Fish and Fishery Products had completed its mission and future work would be done by correspondence. Codex thanked Norway for supporting this Committee. Codex also thanked the Russian Federation for the information provided on its Codex activities. Codex encouraged Members to be more active and invited them to liaise with host governments to explore the possibilities of co-hosting future Codex events. More information is contained in document G/SPS/GEN/1481.

#### **2.2.2 IPPC**

2.28. The IPPC reported that the IPPC secretariat was undergoing a transition, effectively establishing two separate units: one focused on standard setting, the other on implementation facilitation. IPPC also highlighted the upcoming 11<sup>th</sup> Session of the Commission on Phytosanitary Measures (CPM), developments in standard setting, achievements in on-going projects on electronic phytosanitary certification and development of materials. The IPPC had also made additional efforts to expand awareness of the IPPC with additional international organizations with mutual interests, most recently with the World Customs Organization, among others. Furthermore, IPPC highlighted efforts undertaken to establish an International Year of Plant Health in 2020. The IPPC expressed its appreciation to, *inter alia*, Australia, Canada, the European Commission, Finland, France, Ireland, the Republic of Korea, New Zealand, South Africa, Sweden, Switzerland, and the United States for the continued financial and human resources support provided. More information is contained in document G/SPS/GEN/1488.

#### **2.2.3 OIE**

2.29. The OIE outlined its report, as contained in G/SPS/GEN/1478. Dr Monique Éloit had formally begun her term as OIE Director-General on 1 January 2016. Other highlights included developments in the OIE standards for terrestrial and aquatic animals; a survey on the participation of veterinary services in national committees for implementation of the new WTO Trade Facilitation Agreement; the fourth OIE Global Conference on Veterinary Education in June 2016; and capacity building using the OIE PVS Pathway.

### **3 SPECIFIC TRADE CONCERNS**

3.1. The Secretariat drew attention to the recently released annual compilation of specific trade concerns (G/SPS/GEN/204/Rev.16). The report compiled all issues raised in the SPS Committee

during 2015. A total of 40 specific trade concerns had been discussed, of which 21 were new issues, 18 were previously raised, and two were reported as resolved (one new and one old).

### **3.1 New issues**

3.2. Before the adoption of the agenda, Indonesia withdrew its Specific Trade Concern regarding exports of Indonesian mangoes to Korea, which had been included on the proposed agenda for the meeting, indicating that good progress had been made in bilateral talks.

#### **3.1.1 South Africa's revised veterinary health certificates for the import of cattle, sheep and goats from Botswana, Lesotho, Namibia and Swaziland (G/SPS/N/ZAF/40) – Concerns of Namibia**

3.3. Namibia expressed its concern over South Africa's revised veterinary health certificates for the import of cattle, sheep and goats from Botswana, Lesotho, Namibia and Swaziland, as notified in G/SPS/N/ZAF/40. Namibia reported that since placing this STC on the agenda, bilateral discussions had taken place and a roadmap towards reaching an amicable solution had been agreed upon. Agreed outcomes of the bilateral meeting included the date of finalisation of standard operating procedures for livestock imports from Namibia, a meeting of relevant authorities prior to finalisation, and agreement that Ministers of Agriculture would provide feedback to industry, with a joint session to be held at the end of April 2015 to endorse the procedures. Namibia remained confident that this bilateral process would result in an amicable solution for both parties, and would keep the Committee informed on progress made in this regard.

3.4. Botswana supported Namibia's concern and proposed an amendment to item 2(a) of the Cattle Export Certificate for it to better reflect Articles 11.8.3-11.8.4 of the OIE Terrestrial Code as the condition prescribed in South Africa's notification was more stringent.

3.5. Swaziland also shared this concern and stated that the new requirements increased administrative and financial burdens on small-scale farmers. Swaziland looked forward to solve the issue bilaterally, within the agreed timelines. Swaziland encouraged South Africa to engage with the Southern African Customs Union (SACU) prior to imposing revisions to the measure in the future.

3.6. South Africa confirmed that bilateral consultations had taken place. South Africa stressed that a comment period had been provided and encouraged interested Members to engage bilaterally if they had any further comments.

#### **3.1.2 China's import restrictions due to Schmallenberg virus – Concerns of the European Union**

3.7. The European Union stated that since 2012 China had suspended imports of bovine semen and other genetic material from ruminants from EU member States affected by Schmallenberg virus. The ban was initially temporary but remained presently in effect. The European Union considered the ban overly restrictive and claimed China was not respecting its obligations under the SPS Agreement. The disease was not listed by the OIE and therefore should not fall under any trade regulatory frameworks. The European Union had informed China of the disease situation, including conducting risk assessment missions in several EU member States, answering questionnaires and organizing technical committees with Chinese experts. The European Union welcomed China's commitment to conduct a fourth expert mission. The European Union remained open to working with China to resolve this issue without further delay.

3.8. China stated its concerns over this disease. Its measures were based on the field risk assessments conducted in several EU member States and the technical seminars held with experts. China had determined that the virus could be spread through insects and transferred by sperm; thus the disease could not be regionalized. China affirmed that its measures were based on science and complied with the SPS Agreement. China looked forward to further technical exchange with the European Union to reach consensus on Schmallenberg virus control and resume trade as soon as possible.

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### **3.1.3 China's import restrictions due to Highly Pathogenic Avian Influenza – Concerns of the European Union**

3.9. The European Union expressed its concern over China's import restrictions on HPAI. It had raised the issue as a general STC in March 2015 and many Members had lifted their bans rather quickly. China continued to maintain its import policy despite the European Union's regionalization efforts. The OIE standard stated that the measure could be lifted after the application of a stamping out or a regionalization policy. The European Union considered China's policy as over-restrictive and not recognising the concept of pest- or disease-free areas. The European also requested China to clarify its procedures to recognise regionalization, especially given that China faced domestic HPAI outbreaks and also implemented its own regionalization policies. The European Union remained open to continue working with China to resolve this issue.

3.10. China explained that the measures had been taken after several EU member States had reported HPAI outbreaks. In accordance with OIE rules, China implemented zoning for LPAI rather than HPAI. China reaffirmed that its measures were consistent with international practice and the SPS Agreement. Once the risk was under control, China would commence a risk assessment, on which basis it might consider lifting the ban.

### **3.1.4 EU restrictions on exports of pork from the State of Santa Catarina – Concerns of Brazil**

3.11. Brazil expressed its concerns on restrictions on exports of pork from the State of Santa Catarina. Brazil had been requesting access to the EU market since 2007 and had implemented a ractopamine-free segregated production (RFP) scheme in order to comply with EU regulations. Brazil also recalled that MRLs for ractopamine were adopted at the 35<sup>th</sup> Session of the CAC. Brazil questioned the EU's testing methods and results on an audit of the RFP scheme and urged the European Union to lift the restrictions. Brazil highlighted that this issue would continue to be discussed under the Brazil-EU SPS mechanism.

3.12. The European Union recalled that its policy on ractopamine required countries which had authorized its use in pig meat production to have a split production system in place to ensure that pig meat exported to the European Union is not derived from animals treated with ractopamine at any stage of the production cycle. Audits carried out in 2011 and 2013 in Santa Catarina had concluded that Brazil could not provide adequate guarantees that meat produced in this state would comply with EU regulations. The European Union remained open for further bilateral discussions based on any new information provided by Brazil.

### **3.1.5 Nigerian restrictions on exports of beef and poultry – Concerns of Brazil**

3.13. Brazil expressed its concerns over Nigeria's import restrictions on all types of refrigerated or frozen meat and foods containing meat due to deficiencies in the Nigerian cold chain. In June 2010, Brazil had sent Nigeria proposals of international sanitary certificates for meat and Nigeria had responded that meat imports were forbidden in accordance with the 2007 legislation. Brazil also highlighted Nigeria's Trade Policy Reviews in 1998 and 2005 in which Nigeria had agreed to reduce the list of prohibited products to align with WTO rules. Brazil requested an explanation of the reasons for maintaining this legislation and feedback on the international sanitary certificates. Brazil urged Nigeria to lift these requirements. It remained committed to continue bilateral discussions, and expressed its appreciation for Nigeria's availability on the margins of the current Committee meeting.

3.14. Nigeria thanked Brazil for the constructive bilateral meeting held on the margins of the current SPS Committee meeting. Nigeria clarified that the import list was currently under review and the restrictions on meat were being applied on an MFN basis. The measures were applied to protect health and life due to a lack of importers' capacity to cope with safety requirements. Nigeria hoped that the measures could be relaxed upon the provision of technical assistance. Nigeria confirmed its commitment to review its trade and SPS policies and to continue working with Brazil to resolve this issue.

## 3.2 Issues previously raised

### 3.2.1 EU revised proposal for categorization of compounds as endocrine disruptors – Concerns of Argentina, China and the United States (No. 382)

3.15. Argentina again raised its concern with the EU revised proposal for categorization of compounds as endocrine disruptors, both on defining criteria for identifying endocrine disruptors and on the future EU approach to establishing MRLs and import tolerances for said substances. Argentina urged the European Union to adopt a risk-based rather than a hazard-based approach. Argentina requested more information on the socio-economic impact of the EU revised proposal on endocrine disruptors. Argentina also requested an update on information provided at the previous TBT Committee meeting on this topic.

3.16. China shared the concern while commending the European Union for its efforts to protect consumers' health. China urged the European Union to incorporate actual exposure in its regulations, to apply existing Codex standards to minimize trade impacts, and to notify its measures at an early stage to take into account Members' comments.

3.17. The United States reaffirmed the importance of plant protection products and their uses and recalled its concerns about the EU "roadmap", which outlined possible options for defining criteria to identify endocrine disruptors. The United States questioned the scientific evidence underlying the options, and the consideration of any hazard-based "cut off" option instead of risk from actual exposure. The United States encouraged the European Union to share information on the methodology used in developing EU member States' impact assessments as well as an update on the EU's intentions to include socio-economic analysis in the impact assessment. The United States requested that the European Union recognize risk-based endocrine programmes developed by other countries. It also requested that the European Union keep the Committee informed of relevant developments, and encouraged the European Union to publish the draft legislation, once developed, including any risk and impact assessments carried out, for public comment. Additionally, the United States raised a concern regarding EU regulation 1107/2009 that sets out a hazard-based approach, rather than risk-based, to determine whether substances should be authorized for use. According to this regulation, pesticides previously deemed safe under a risk-based approach would no longer be authorized if they triggered a hazard "cut-off", as described in EU regulation 1107/2009. The United States urged the European Union to communicate risks accurately to the public and reaffirmed its commitment to collaboration to reduce the potentially severe impacts on trade.

3.18. Canada shared this concern, as in the last three SPS Committee meetings. Hazard identification was an important step in risk analysis, but needed to be placed into the context of exposure. Canada continued to seek clarification on the EU regulations, as the proposed approaches could impede the use of safe crop protection products, thus restricting trade without evidence of increased safety. Canada noted that the EU impact studies would be released later in 2016 and requested clarification on how the studies would be utilized and comments would be managed.

3.19. Brazil, Burundi (on behalf of the African Group), Central African Republic, Colombia, Chile, Dominican Republic, Guatemala, Jamaica, India, Kenya, Madagascar, Mexico, New Zealand, Nigeria, Senegal, Thailand, Togo, Viet Nam, and Zambia also spoke about the revised EU proposal on endocrine disruptors. They encouraged the European Union to, *inter alia*, follow a risk-based approach, minimize any potential trade impacts, adhere to relevant international standards and keep informing the Committee of any relevant developments, especially the forthcoming impact assessments.

3.20. The European Union clarified that the roadmap contained two elements: the approaches to identify criteria and the approaches to regulatory measures. Two options of the latter contained elements of risk assessment. The European Union stated that in response to a judgement of the EU General Court in December 2015, the European Commission had decided to accelerate its ongoing impact assessment work in order to be able to present the results in summer of 2016. The report was in its final stages and would be publically available once formally approved. Two regulatory measures were being considered: one containing criteria applied to chemical substances falling under the Plant Protection Products Regulation, and the other containing criteria

applicable under the Biocidal Products Regulation. Both measures would be notified to the WTO in draft forms for comments prior to adoption. The European Union recalled that in the impact assessment the potential trade impacts were being evaluated, together with impacts on agriculture, health, environment, and socio-economic impacts. The European Union noted that the methodology used to screen which chemicals may fall under the different options for criteria to identify endocrine disruptors had been developed by the Joint Research Center of the European Commission and had been presented in November 2015. The methodology, results, and contractor's details would be published upon completion. Finally, the European Union highlighted that it was acting in a fully transparent manner and invited Members to visit the dedicated website where all relevant information was available.

### **3.2.2 Chinese Taipei's import restrictions on Japanese foods in response to the nuclear power plant accident – Concerns of Japan (No. 387)**

3.21. Japan reiterated its concerns over the import ban imposed by Chinese Taipei on food from five Japanese prefectures after the accident at TEPCO's Fukushima Daiichi Nuclear Power Station. Japan reported that, despite receiving what it regarded as a positive response from Chinese Taipei affirming its commitment to bilateral efforts, as well as high-level leadership meetings held on the margins of the APEC Ministerial Meeting in November 2015, no progress had been made in resolving the issue. Japan noted that the ban was not scientifically justifiable as radioactive residues exceeding standard limits were only found in certain types of food, mostly wild mushrooms and game meat. Japan encouraged Chinese Taipei to move the process forward to resolve the issue as soon as possible.

3.22. Chinese Taipei described the measures in place and stated that they were necessary to address public health concerns, especially given the fact that contaminated water and materials had not been entirely cleaned and contaminated water continued to leak from the plant site. According to recent trade data, consumers were regaining confidence in Japanese products. Chinese Taipei reported that it had set up a joint working group with the Japanese Government and looked forward to cooperating closely with Japan under this joint-working mechanism.

3.23. Japan questioned the relevancy of contaminated water and public concern on food safety. Data from various sources showed a growing demand for Japanese food. Japan thanked other Members who had already lifted or eased their import restrictions.

### **3.2.3 China's import restrictions on Japanese foods in response to the nuclear power plant accident – Concerns of Japan (No. 354)**

3.24. Japan reiterated its concern regarding the import restrictions imposed by China on Japanese food exports after the accident at TEPCO's Fukushima Daiichi Nuclear Power Station and reported that at the end of October 2015, a letter had been received from Beijing. Subsequent letters had been sent in response to China's requests, and no further clarifications from China had been received. China maintained the ban on certain products from 37 prefectures. Japan stated that, based on various trade data, demand for Japanese food existed and a removal of the ban could increase exports. Japan looked forward to the resolution of this issue in the near future.

3.25. China reported that there had been no update since October 2015 since the risk assessment was still ongoing. China recalled its interventions in previous meetings on this issue.

### **3.2.4 Regulation of the European Parliament and of the Council on novel foods – Concerns of Peru (No. 238)**

3.26. Peru raised its concerns over the new EU Regulation No. 2015/2283 on novel foods, which, like its predecessor Regulation No. 258/97, restricted the entry into the European market of certain foods and food ingredients qualified as "new foods" for not being marketed in the European Union before 15 May 1997. Peru expressed its appreciation for the seminar organized by the European Union on the margins of the current SPS Committee meeting, but noted that once again there was no scientific basis to justify the 25-year history period of safe food use. Peru also highlighted the potential adverse impacts the regulations may have on SMEs in developing countries. Peru invited Members to review the examples of products affected by such regulations from previous submissions and cited in G/SPS/GEN/1477. Peru urged the European Union to

address its concerns regarding the new regulation, in particular to provide the necessary scientific justification for the regulation.

3.27. Colombia noted that some of its concerns on the new legislation had been addressed in the seminar organized by the European Union, particularly on documentation requirements. However, Colombia remained concerned that the definition of a novel food remained a product not consumed in the EU market before 1997, and about the burden small producers in developing countries would face in complying with the regulation.

3.28. Guatemala also shared the concern, reaffirming that the measure needed a scientific basis and urging the European Union to take into account the implications for small-scale, rural producers.

3.29. The European Union had already informed the Committee under a previous agenda item that the new Regulation No. 2015/2283 had been adopted in November 2015 and would apply from 1 January 2018. Preparations for implementing the new rules were ongoing, including guidance from EFSA for applicants seeking authorization. The European Union noted that the proposed regulation was consistent with the SPS Agreement. As it was not possible to address potential risks associated with novel foods in an all-encompassing risk assessment, the high level of food safety pursued in the European Union could only be achieved on a case-by-case basis within the framework of a pre-market approval system, in accordance with Article 8 and Annex C of the SPS Agreement. The pre-market approval system foreseen in the regulation was based on scientific risk assessment in line with Articles 5, 8, and Annex C. Concerning the 25-year period of consumption, although there was no consensus on an exact period, most experts and regulators considered the period should cover one to several generations; 25 years translated to roughly one generation, which was in the lower-end of this spectrum. In addition, the regulation complied with Article 10 on special and differential treatment because it introduced a simplified procedure for the placement of traditional biodiversity foods on the EU market, once their history of safe use in third countries had been demonstrated, and if no safety concerns based on scientific evidence had been raised. The European Union was confident that the new regulation was fully consistent with the provisions of the SPS Agreement and remained committed to cooperating with all interested Members.

### **3.2.5 India's amended standards for food additives – Concerns of the European Union (No. 403)**

3.30. The European Union reiterated its concerns on India's Draft Food Safety and Standard Amendment Regulation, notified in G/SPS/N/IND/108. The European Union again welcomed the user-friendly and simple approach to the listing of food additives in food products, as well as the hierarchical listing of food additives. However, the European Union observed that the regulation, if maintained as notified, risked disrupting both national Indian production and imports to India. The draft regulation recommended maximum levels of additives only where Codex had set such levels in the General Standard for Food Additives (GSFA). The European Union noted that the GSFA had expressly stated that a lack of reference to a particular additive or use of an additive in a food product did not imply that the non-listed additive was unsafe or unsuitable for use. The European Union further noted that the GSFA was neither complete nor exhaustive and that many Members had implemented maximum levels of additives on a scientific basis where no Codex standard existed. In addition, for wines and spirits, in the European Union's view, India had not taken into consideration the adoption of standards by other international standard-setting bodies, such as the International Organization for Vine and Wine (OIV) to which India was also a member. The European Union urged India to maintain its engagement in the Codex and OIV work, including in the Electronic Working Group under CCFA (Codex Committee on Food Additives) on wine additives standards, where deliberations were expected to be focused on not limiting the use of wine additives but either allowing the usage on basis of Good Manufacturing Practices or by setting a numerical value to use of additives in wine production. The European Union concluded by asking India to modify the 2015 regulation based also on the EU comments to the above-mentioned WTO SPS notification and to provide a written reply to the EU comments. The European Union remained available to cooperate with India to further discuss this and related matters in detail.

3.31. The United States shared this concern and stated that its comments and those from a domestic wine industry association had been submitted in January 2016, but had yet to receive a

response. The United States requested such response to be provided and invited Indian experts to attend a technical forum to be hosted by the World Wine Trade Group in May 2016.

3.32. Chile and New Zealand shared the concern and echoed sentiments already expressed regarding the inclusion of commonly-used and safe additives, and encouraged India to work closely with the Codex working group as the proposal was further developed.

3.33. India reported that its Food Safety and Standards Authority had attempted to harmonize the standards of food additives with those of Codex. The Authority was working on finalizing the list of food additives as soon as possible and comments from interested stakeholders were being taken into consideration.

### **3.2.6 US measures on catfish – Concerns of China and Viet Nam (No. 289)**

3.34. China again raised its concern regarding the US regulation on Mandatory Inspection of Catfish and Catfish Products, which transferred the regulatory food safety oversight of catfish from FDA to the Food Safety Inspection Service (FSIS) of the USDA. The regulation had taken effect on 1 March 2016 and applied terrestrial animal meat inspection procedures to aquatic products, which was without precedent worldwide. China further noted that there was no evidence showing that Siluriformes fish posed a higher food-borne risk than other aquatic products and thus queried the rationale for changing the regulatory responsibility from FDA to USDA only for Siluriformes fish instead of all aquatic products. China again noted that the distinction between Siluriformes fish and other aquatic products could also result in a disguised restriction on international trade. China urged the United States to abolish all non-conforming legislation related to mandatory inspection of Siluriformes fish and to base its regulation on relevant international standards or on a scientific risk assessment.

3.35. Viet Nam shared the concerns expressed by China and echoed that the measure was not based on scientific evidence. Viet Nam, like China, questioned the application of terrestrial inspection regimes to only one type of aquatic animal. Viet Nam stated that in implementing this legislation, the United States had not taken into consideration existing trade in catfish and catfish products with Viet Nam and other countries. Viet Nam requested that United States address these concerns as the regulation in its current form would result in disguised trade restrictions.

3.36. Thailand also shared this concern even though the export value of catfish from Thailand to other countries was low. Thailand requested the United States to provide clarification and justification on this matter.

3.37. The United States replied that the measure had been published in February 2011 and notified to the WTO in G/SPS/N/USA/2171. The final USDA rule on catfish inspection had been published on 2 December 2015, with the addendum notified on 3 December 2015. The rule had been carefully developed to take into account all comments and obligations under WTO rules. The United States remained committed to facilitate a smooth introduction of the inspection programme and FSIS would conduct outreach to all trading partners regarding implementation.

### **3.2.7 The Russian Federation's import restrictions on processed fishery products from Estonia and Latvia – Concerns of the European Union (No. 390)**

3.38. The European Union reiterated its concerns regarding the Russian Federation's restrictions on imports of all fishery products from Estonia and Latvia. The European Union recalled that in June 2015, the Russian Federation had introduced a ban on all fishery products from the two EU member States. The European Union considered the measures not based on scientific evidence or risk assessment, applied beyond the extent necessary to protect human health, and more trade restrictive than necessary. The Russian Federation had not presented a risk assessment or provided evidence of immediate risk to consumers caused by deficiencies in the control systems of Estonia and Latvia, which had been regularly inspected by the Russian Federation in recent years without having identified any major problems. The European Union stated that the measures did not meet the Russian Federation's WTO accession commitments, which included not to suspend exports from groups of establishments without first having provided the technical information and scientific justification of the risks detected, and not to take such measures before the expiry of the timeframe provided for the adoption of corrective measures. Furthermore, the Russian Federation



had adopted the ban just one day after the submission of the preliminary report of the audit to the competent authorities, in contrast with the reasonable time commitment it had made prior to its accession. With regard to the EU rapid alert system for food and feed (RASFF) the European Union underlined that it was a transparent system which made available, not only to the authorities in the European Union but also to non-EU countries, information on the detection of non-compliant products. It was an essential component of an effective and efficient food safety system. It was regrettable to see this information being misused by some trading partners for imposing disproportionate trade bans, particularly when those partners did not apply the same level of transparency to their own products. The European Union noted that Latvia and Estonia had both acted without delay in response to the findings of Russia. One of the actions taken was the immediate withdrawal from the market of the concerned products. Not 20% – as Russia has claimed, but 100% of the products had been withdrawn. Furthermore, both EU member States put in place corrective measures within the timeframes Russia set, which was two months. These actions were brought to the attention of Russia in writing. Russia however had not shown any willingness to take into account these corrective actions and the restrictions had not been lifted. The European Union requested the Russian Federation to immediately lift the ban and respect its WTO obligations while expressing its readiness to discuss the matter with the Russian authorities in a constructive and cooperative manner.

3.39. The Russian Federation stated that it looked forward to close cooperation between the regulatory authorities, however, the import requirements of the Russian Federation and the Eurasian Economic Union needed to be followed. The Russian Federation had opened its market to EU member States through its accession obligations and found that EU guarantees had not been reliable as regular detection of banned contaminants, such as poly-aromatic hydrocarbons and benzopyrene, had occurred through monitoring programmes. The Russian Federation claimed that notifications from the EU Rapid Alert System for Food and Feed (RASFF) to withdraw potentially hazardous products were not timely or effective, as only around 20% were withdrawn and the rest exported. In addition, the Russian Federation had not received responses to questions submitted to Latvian authorities regarding an establishment that had exported potentially unsafe products and whether or not additional testing for benzopyrene had taken place. As mentioned previously, the Russian Federation was closely cooperating with the veterinary services of Latvia and Estonia to assess the safety systems implemented. However, questions remained and the Russian Federation believed that there was a lack of transparency, as RASFF notifications sent to third countries seemed to be simplified, containing no specific information on the establishments or consignments where violations had been detected, which impeded the withdrawal of potentially hazardous products. The CVO of Latvia had officially informed the Russian Federation that it was the European Commission which had notified all RASFF registered cases when harmful substances had been detected in EU products to the Russian Federation. No information on excessive levels of benzopyrene in Latvian products had been provided. The Russian Federation would continue cooperating in order to resume imports of canned fish and planned to carry out another round of inspections of processing plants in Latvia and Estonia in March-April 2016. The competent authorities had been notified.

3.40. The European Union noted the Russian Federation's statement and expressed its surprise that the facts presented by the Russian Federation did not correspond to the information it possessed.

### **3.2.8 China's import restrictions due to African swine fever – Concerns of the European Union (No. 392)**

3.41. The European Union again raised concerns about China's bans due to African swine fever (ASF). China had imposed a ban on EU pork and pork products since February 2014 without applying regionalization, and without scientific justification or clarification on how and when it would recognize the stringent zoning measures put in place in the European Union to allow the prompt resumption of safe trade. The European Union highlighted that, like China, it was an important pork producer and thus needed to be prudent, citing the free flow of goods through the EU market as an example of guaranteeing safe trade within its own market, but also for its exports. The European Union had requested several times that China provide a risk assessment justifying the country-wide ban and the non-recognition of the EU zoning measures, but China had failed to respond. The European Union asked China to respect its regionalization obligations under the SPS Agreement and to allow trade of safe products.

3.42. China replied that its measures were entirely based on science and safety considerations. It was a major pig producer, and as such subject to great losses in case the disease entered the country. China indicated that the measures were in line with relevant Chinese laws and regulations and stated that it needed to further evaluate the EU measures, since five outbreaks in wild pigs had been reported in 2016, suggesting that the disease might still exist in wild pigs in Poland. China encouraged the European Union to take effective measures to control the spread of ASF.

### **3.2.9 Korea's import restrictions due to African swine fever – Concerns of the European Union (No. 393)**

3.43. The European Union stressed the importance of regionalization and the massive potential trade impact of failing to recognize effective regionalization measures and, in that context, reiterated its concerns regarding Korea's import restrictions on pork and pork products due to ASF. The European Union stated that despite having raised this concern at the July and October 2015 SPS Committee meetings, and having had several bilateral discussions, import restrictions remained. Korea had informed the European Union in October 2015 that it had decided to proceed to the next step of its risk assessment process. However, that risk assessment process lacked clarity about the required steps and the use of information provided by the European Union, in particular on its control, surveillance and monitoring measures. The European Union called on Korea to respect its regionalization obligations under the SPS Agreement and to allow trade of safe products. The European Union also restated its availability to continue working with Korea and any other trading partners with a view to finding a rapid solution to the matter.

3.44. Korea stated that it was reviewing the European Union request for regionalization carefully as it was ASF-free and the disease was highly-contagious. Korea had sent an evaluation questionnaire to the Polish government in December 2015 and was awaiting a response. An EU delegation from DG-SANCO had a technical meeting in Korea with relevant expert authorities. Both sides had exchanged views on this issue, including current risk assessment procedures and potential ways forward. Korea requested that the European Union cooperate fully in order to expedite the risk assessment process.

### **3.2.10 General import restrictions due to BSE – Concerns of the European Union (No. 193)**

3.45. The European Union reiterated the importance of this long-standing concern. A few countries still kept a ban in place, even though the scientific evidence had proven that safe trade of beef could take place regardless of BSE country risk status. The European Union again urged all Members to respect international rules and align their measures with OIE standards. While some Members had lifted the bans, the European Union regretted, once more, the fact that many countries never provided a risk assessment justifying their deviations from international standards. The European Union welcomed the recent lifting of the ban by Japan for two further EU member States, making a total of seven EU member States that could now export beef to Japan. In relation to China and the United States, the European Union welcomed the start of the process for current applications which it hoped would be expeditious. The European Union also welcomed Argentina and Ukraine's lifting of the bans, citing this as a good example of rapid implementation. Finally, the European Union encouraged all Members, such as Australia and Korea, to proceed in a swift manner to lift the bans and hoped that the backlog of applications submitted by EU member States would soon disappear.

### **3.2.11 US non acceptance of OIE categorization of India as "negligible risk country" for BSE – Concerns of India (No. 375)**

3.46. India reiterated its concerns with the US non acceptance of the OIE categorization of India as a "negligible risk country" for BSE. India recalled that it was considered as a negligible risk country by the OIE, based on the dossier it had submitted. India reported that the United States refused to accept this categorization, prompting India to send the dossier to the United States to carry out an independent assessment. India was concerned that this led to double certification requirements – one specific to the United States and the other for other Members. India requested that the United States accept the OIE categorization and act upon the submitted dossier so that a standard certificate could be issued for by the Indian authorities for all Members.

3.47. The United States expressed its full commitment to align its import regulations, governing BSE with OIE guidelines. The United States reported that in 2013, USDA's Animal and Plant Health Inspection Service (APHIS) had published a final rule in the Federal Register which ensures that US BSE import regulations are in line with international animal health standards that support safe trade in bovines and bovine products. On 4 December 2015, USDA APHIS had published a Notice in the Federal Register advising the public of preliminary concurrence with the OIE's BSE negligible risk designations for 16 regions, including India. The United States stated that other countries covered by this notice were Bulgaria, Cyprus, Czech Republic, Estonia, France, Hungary, the Republic of Korea, Latvia, Liechtenstein, Luxembourg, Malta, Portugal, Romania, Slovak Republic, and Switzerland. The United States indicated that the comment period for the Notice had closed on 4 February 2016, and the next step would be publication of the second Notice finalizing US recognition of these 16 regions, including India, as negligible risk for BSE.

### **3.2.12 China's measures on bovine meat – Concerns of India (No. 383)**

3.48. India reiterated its concern regarding China's measures on bovine meat. In October 2015, a Chinese AQSIQ delegation had visited India and had concluded that India did not meet the OIE guidelines for FMD management. India reported that as per the OIE guidelines, India's FMD programme had been recognized as a controlled programme and that India had been advised to de-mark FMD-free regions and seek corresponding OIE certificates. On the basis of being recognized as having a controlled programme for FMD, India requested China to consider the same and allow market access of bovine meat to China.

3.49. China explained that it attached great importance to Indian buffalo meat exports to China. However, China's field investigation on Indian FMD prevention and control systems had concluded that FMD still existed in India and had pointed to inefficiencies present in the system. China further explained that according to Chinese experts, India did not meet the requirements of OIE recognized FMD free status. Therefore, China notified the result of the assessment to India on 12 January 2016 and suggested that India carry out regionalization management in accordance with OIE standards. China invited India to re-apply after obtaining OIE recognition.

### **3.2.13 Costa Rica's suspension of the issuing of phytosanitary import certificates for avocados (G/SPS/N/CRI/160, G/SPS/N/CRI/160/Add.1 and G/SPS/N/CRI/162) – Concerns of Mexico (No. 394)**

3.50. Mexico reiterated its concern regarding Costa Rica's suspension of the issuing of phytosanitary certificates for avocado imports. Mexico considered the measure to be in violation of fundamental principles of technical and scientific justification based on international standards, most-favoured nation, proportionality and transparency, thus violating the SPS Agreement and the SPS Chapter of NAFTA. Mexico had called for consultations with all relevant bodies under the FTA that Costa Rica and Mexico has signed. Mexico described the measure's significant negative impact on its avocado exports, and requested the Costa Rica to immediately withdraw its measure in order to resume avocado trade between the two countries. In addition, Mexico requested the Costa Rica to provide a prompt written response to the communications and questions sent by Mexico. Mexico urged Costa Rica accept Mexico's measures as sufficient to ensure that avocado sunblotch viroid would not spread to Costa Rica.

3.51. The United States shared Mexico's concerns and asked Costa Rica to take steps to restart issuing phytosanitary import permits, since the suspension was not consistent with international standards and guidelines nor scientifically justified. The United States expressed concerns regarding other agricultural trade issues with Costa Rica, including those affecting rice, onions, and potatoes. The United States informed that some importers had been denied import permits for onions despite the absence of phytosanitary restrictions and that those importers had expressed a willingness to pay out-of-quota duties.

3.52. Ghana stated that the notification by Costa Rica also suspended imports permits from seven other countries, including Ghana. Ghana requested to be removed from this list immediately, as sunblotch viroid was not present in Ghana. Ghana expressed gratitude to the African Union for making it possible for delegates to attend the SPS Committee meeting.

3.53. Guatemala and Venezuela shared Mexico's concern and indicated that they would follow this issue closely. Venezuela noted that, like Ghana, it was also one of the Members affected by the measure.

3.54. Costa Rica recalled that the State Phytosanitary Service (SFE) had suspended the issuance of import permits for Mexican avocados because of the confirmed presence of the avocado sunblotch viroid. Costa Rica explained that since the measure had been adopted provisionally, based on the available scientific data, it had been notified as an emergency measure on 5 May 2015 in G/SPS/N/CRI/160. The SFE had quickly evaluated the scientific evidence, undertaking a pest risk analysis (PRA) which had been notified to the WTO on 13 July 2015 as G/SPS/N/CRI/162, establishing a period of 60 days for comments. Further, the comments of Mexico had been studied by the national authorities. On 12 October 2015, the relevant authorities of both countries had met in San Jose with the aim of reviewing Mexico's concerns. During the meeting, Costa Rica had indicated that the measures were based on the recognized rights within the SPS Agreement to protect the national phytosanitary status, based on scientific evidence. Costa Rica reported that it sent Mexico the most recent version of the PRA, providing a new opportunity to comment. In addition, five bilateral meetings had taken place involving a range of specialists from both countries and Costa Rica had rigorously responded to suggestions made by the Mexican authorities. In December 2015, Costa Rica had undertaken another assessment, which found Costa Rica free of the pest. Costa Rica indicated that the phytosanitary authorities were working on the notification of the definitive measures which would apply to avocado imports from Mexico. Costa Rica expressed its willingness to engage in open dialogue with the aim of responding to questions and technical concerns related to this measure with Mexico and other trading partners.

#### **3.2.14 US high cost of certification for mango exports – Concerns of India (No. 373)**

3.55. India recalled its concerns regarding the US high cost of certification for mango exports it had raised in previous SPS Committee meetings and thanked the United States for bilateral discussions at the technical level to resolve this issue. India highlighted two issues, increasing the number of facilities for irradiation of mangoes before export, and the requirement to that the irradiation process be carried out in the presence of the US certified technical experts only. India reported that there had been progress in the recognition for additional facilities for irradiation. However, the high cost is a result of flying in the US technical experts. India stated that the same irradiation could be carried out in the presence of trained Indian officials appointed by the United States to reduce the cost of certification. India also recalled an alternative option of irradiation on arrival, which proved to be equally costly.

3.56. The United States restated that Indian mangoes had been approved for export to the United States in April 2007, with India becoming the first country to ship irradiated commodities to the United States. The United States had worked closely with its counterparts in the Indian government and had provided the Ministry of Agriculture with the necessary documentation and procedures to allow importation of Indian mangoes, subject to irradiation upon arrival in the United States. USDA APHIS plant health experts had productive discussions with their Indian counterparts at a bilateral meeting on 23-24 February 2016. The United States also reported that the re-certification visit to Vashi irradiation facility by the APHIS team had taken place on 25 February 2016. APHIS looked forward to working with India to certify the facility for the start of the mango export season. Until that time, the existing irradiation facility at Nasik was the only facility currently certified to irradiate mangoes for shipment to the United States.

#### **3.2.15 EU ban on certain vegetables from India – Concerns of India (No. 374)**

3.57. India recalled its concern regarding the EU ban on exports of mangoes and four types of vegetables, on the grounds of an increasing number of interceptions of harmful pests and organisms since May 2014. The ban on mangoes had been lifted in February 2015; however the ban on vegetables has been extended to December 2016. India requested the European Union to share its findings of the official assessment visit and the gaps in the control system which led to the extension of the ban.

3.58. The European Union confirmed that its measures had been introduced in April 2014 due to significant shortcomings detected during previous audits of the European Commission and a very

high number of interceptions to prevent the introduction of harmful organisms. The ban on mangoes had been lifted in February 2015 and imports of mangoes were allowed if the Indian competent authorities declared the measures taken to ensure freedom from harmful organisms. With regard to other vegetables (taro leaves, bitter melon, eggplant and snake melon), the measures remained in place and had been extended until the end of December 2016 because the number of interceptions had remained significantly high. These high numbers raised very serious concerns about the effectiveness of the Indian phytosanitary export/control system, in relation not only to fresh fruits and vegetables but wood packaging materials as well. The European Union indicated that it maintained regular information exchanges with the Indian authorities which had been supported by technical assistance activities.

### **3.2.16 China's proposed amendments to the implementation regulations on safety assessment of agricultural GMOs (G/SPS/N/CHN/881) – Concerns of the United States (No. 395)**

3.59. The United States again raised concerns with China's Proposed Amendments to the Implementation Regulations on Safety Assessment of Agricultural GMOs, which amended the requirements for the safety assessment for genetically engineered products, notified as G/SPS/N/CHN/881. The United States stated that China approved only three of the 11 pending products that were poised for final approval. The pending products were subject to technical and administrative questions. The United States viewed this as an attempt to slow down new product approvals by posing procedural questions, imposing regulatory requirements not used by other countries, and by asking questions outside of the contours of scientific evidence. Following the consensus between the presidents of the two countries and commitments made at the bilateral dialogues in November 2015, the United States expected that China's biotech reviews would move forward with greater transparency, timeliness, predictability and would rely on science as the only criterion for evaluating the products of agriculture biotechnology. The United States reiterated that China had also committed to revise its regulations, based on comprehensive consultation with domestic and international stakeholders, and to enhance its capability of safety administration and approval of agricultural products. Hence, the United States hoped to see China's concrete actions to achieve greater predictability in the approval process and to ensure that science based decisions were taken when amending its regulatory process, as indicated in G/SPS/N/CHN/881. In this regard, the United States looked forward to China's publication and notification of its final revision to Decree 8 upon completion of domestic procedures. Finally the United States noted that there were 22 products pending at various stages in China's regulatory process, including the eight products mentioned earlier, poised for final adoption. The United States appreciated the Chinese engagement to preserve a harmonious trade relationship.

3.60. China explained that its proposed amendments to the Implementation Regulations of Safety Assessment of Agricultural GMOs were aimed at improving the management of GMOs, in response to the rapid development of biotechnology, and social and environmental concerns. China reported that it was reviewing and analysing all comments and would provide Members with feedback through proper channels, while maintaining transparency. Further, China stated that its GMO safety management had always been based on internationally-acknowledged risk analysis principles, including risk assessment, risk management and risk communication. China also indicated that economic and social factors would not affect the scientific conclusions of risk assessment. This process, in turn, would make the decision-making process more transparent, promote development and trade while complying with SPS rules. China hoped to continue the bilateral consultation mechanism and discuss GMO-related concerns thoroughly in order to facilitate trade in a mutually beneficial manner.

### **3.2.17 EU proposal to amend Regulation (EC) No. 1829/2003 to allow EU member States to restrict or prohibit the use of genetically modified food and feed (G/TBT/N/EU/284) – Concerns of Argentina (No. 396)**

3.61. Argentina raised concerns over the draft legislation notified on 20 May 2015 as G/TBT/N/EU/284, which aimed to amend the current system of authorization of GMOs provided under Regulation (EC) 1829/2003, in order to allow member States to restrict or prohibit the use of GM food and feed in all or part of their territory, even if a favourable opinion had been granted by the European Food Safety Agency. Argentina requested the European Union to withdraw the draft amendment and implement the current EU legislation on authorization and approval of GMOs throughout the entire European Union in accordance with multilateral rules.

3.62. Canada recalled that it had raised concerns over this proposal in past SPS and TBT Committee meetings. In August 2015, Canada had submitted comments in response to the EU TBT notification, and had received a response. Canada continued to believe that any EU member State measure taken under this proposal could have the potential to disrupt trade and introduce uncertainty. Canada noted the recent opinion of the Legal Service of the European Council that the proposal was unlikely to be found consistent with the European Union's internal market rules or its WTO commitments. Canada requested information on the European Union's plan for the future. Canada would monitor the issue closely.

3.63. The European Union explained that the proposal had no relation to the protection of life or health of humans, animals or plants. As a consequence, the measure did not fall under the scope of the SPS Agreement and therefore had been notified under the TBT Agreement. Several comments had been received from WTO Members and replies had been sent to these comments via the TBT channels. The European Union also mentioned that the proposal was currently under discussion at the Council of Ministers and the legislative process was on-going.

### **3.2.18 EU withdrawal of equivalence for processed organic products – Concerns of India (No. 378)**

3.64. India recalled its statements from previous SPS Committee meetings and reported the most recent developments. In April 2015, an FVO mission had taken place to inspect the control systems but the report had not been received until February 2016. The report did not address the equivalence issue and India remained unaware of any gaps or of the steps the European Union was taking to address this issue. India restated its position that if any regulation addresses food safety in the context of Article 2.1 or Annex A falls under the scope of the SPS Agreement.

3.65. The European Union reiterated its position that this issue did not fall under the SPS Agreement. The European Union remained open to continue discussions with India on this matter in the appropriate framework.

3.66. The United States associated itself with the European Union and reiterated its view that this issue was not SPS-related.

## **3.3 Information on resolution of issues in G/SPS/GEN/204/Rev.16**

### **3.3.1 Mexico's measures on imports of hibiscus flowers – Concerns of Nigeria (No. 386)**

3.67. Nigeria reported that its concerns over Mexico's measures on imports of hibiscus flowers (STC 386) had been resolved. Nigeria expressed its gratitude to Mexico, the Secretariat and to the SPS Committee for the roles played in resolving the issue.

3.68. Mexico confirmed the resolution and that it was pleased to have successfully resolved the issue thanks to the commitment of the authorities in both countries. Mexico also highlighted the resolution of the issue as an example of the SPS Committee's effective role in settling trade concerns.

### **3.3.2 India's amendment to its import policy conditions for apples; Restriction to Nhava Sheva port (No. 397) – Update from the United States**

3.69. The United States thanked India for rescinding its port restrictions on apples and welcomed the removal of the measure. The United States also expressed appreciation for India's efforts to ensure the immediate notification of any such future actions of a similar nature to the relevant WTO committee.

3.70. New Zealand echoed the United States' sentiments and thanked India for opening the ports. However, New Zealand understood that two out of the original six ports remained closed. If that was indeed the case, New Zealand encouraged India to also allow apples to be imported through those ports.

3.71. The European Union thanked India for reopening the ports and looked forward to the opening of the other ports, as well as receiving any future notifications from India on similar measures.

3.72. India stated that as far as it was concerned, the issue was not an SPS issue and therefore did not accept it being listed as a resolved issue in this Committee.

#### **4 OPERATION OF TRANSPARENCY PROVISIONS (G/SPS/GEN/804/REV.8 AND G/SPS/GEN/804/REV.8/CORR.1)**

##### **4.1 Nigeria – Update on transparency**

4.1. Nigeria urged Members to notify technical regulations in their respective countries. Nigeria reported that it had made its first notification in the previous year and efforts were under way to notify current existing and draft-stage regulations in the near future. Major legislation from Nigeria's Agricultural Quarantine Service (NAQS) and also National Agency for Food and Drugs Administration and Control (NAFDAC) were currently undergoing review and would be notified. Nigeria's National Food Policy had been reviewed and notified to the SPS Committee, and was also available on the website of the Federal Ministry of Health: <http://www.gov.health.ng>.

4.2. The United States thanked Nigeria for its constructive efforts with regards to transparency and encouraged Nigeria to pursue those efforts.

##### **4.2 Madagascar – Update on transparency**

4.3. Madagascar informed Members that it had notified two pieces of legislation in 2016: a Draft Food Bill and a Fishing and Agriculture Code Act 2015 (which was adopted in December 2015).

##### **4.3 Guinea – Update on transparency**

4.4. Guinea reported that in February 2016 it had notified its NNA to the WTO and had requested access to the online SPS-NSS. In this context, Guinea also informed Members that its Institute for Standardisation and Metrology had approved 39 standards for shea almonds and unrefined shea butter based on international standards from Codex and the African regional organization for standardization (ARSO). Guinea thanked partners for effective cooperation in this regard.

##### **4.4 State-of-play of the new SPS tools**

4.5. The Secretariat recalled that an update had been provided during the October 2015 Transparency workshop on the two-phase IT project launched in 2015, aimed at enhancing the SPS IMS and SPS NSS tools. In phase I, the new SPS NSS had been developed and tested by a group of Members. Phase II aimed to enhance the SPS IMS.

4.6. The Secretariat announced that a testing platform should be made available internally by end of April, followed by the pilot platform for testing by a group of Members, which would (most likely) take place in May. The Secretariat invited Members to participate in the pilot, once the testing platform was active.

##### **4.5 Pending questions from the October Transparency workshop**

4.7. As a follow-up to the October 2015 workshop, there remained two pending questions to be addressed. The first question concerned the feasibility of a new internet page to share unofficial translations of notified documents in non-WTO working languages. Following discussions with the unit responsible for the WTO internet site, the following possible solution had been suggested. Members willing to share an unofficial translation of a document relating to a notification could submit it to the SPS team for posting on the SPS webpage, with a disclaimer. Submitting Members would be asked to provide a title for the document and to submit the document in a specific format, for instance pdf. The Secretariat assumed that it would not be receiving a large number of documents, and therefore this option would be the easiest to implement as it would require few resources.

4.8. Regarding this possibility of sharing translations, the Secretariat asked Members whether these translations should be public or restricted, only available through the Members website. The Secretariat also asked whether Members thought they would make use of this option, if it was made available. Under the current mechanism for sharing unofficial translations, only 19 supplement notifications had been submitted. Before moving forward, the Secretariat believed it was important to have an indication of Members' interest in using the new mechanism.

4.9. The second question arising from the October 2015 workshop was on the possibility for Observer governments to have access to the new SPS NSS platform. The Secretariat stated that although Observers were not obliged to notify their SPS measures, they could do so if they wished. The Secretariat did not see any constraint that could prevent granting access to the SPS NSS if an Observer government preferred to notify online and encouraged Observers to request access to the online system.

4.10. The European Union suggested that countries should share unofficial translations through an informal online platform which could be maintained by the WTO Secretariat and took note of the solution suggested by the Secretariat for this purpose. Secondly, access to the SPS import requirements of WTO Members should be facilitated, with countries making such requirements available per topic, sector or product via dedicated websites, and internet links to these websites could be shared through an informal platform maintained by the WTO SPS Secretariat. Thirdly, identification of trade facilitating measures needed to be considered, and a thematic session could be organized to exchange experiences on trade facilitating measures. Thereafter, criteria could be developed on how to qualify measures as trade facilitating to avoid situations where trade restrictive measures were notified as trade facilitating measures.

4.11. Saint Lucia reported that its Food Safety Emergency Response Plan and Food Safety policy were currently available in draft form and would be uploaded on the Ministry of Agriculture website. Further, Saint Lucia informed Members that it has taken proactive measures against Lethal yellowing disease amid reports observed from two other Caribbean islands.

4.12. The Secretariat indicated its willingness to facilitate discussions on how to follow-up on the outstanding issues identified in the October 2015 workshop, including the sharing of SPS information (including through websites) and clarifying the meaning of trade facilitating measures. Interested Members were invited to contact the Secretariat.

## **5 CROSS-CUTTING ISSUES**

### **5.1 Thematic Session on Pesticide MRLS (G/SPS/W/284 and G/SPS/GEN/1468)**

5.1. The Chairperson recalled that in October 2015, the Committee had decided to create this agenda item to have a place for all discussions of more general topics that related to the implementation of the SPS Agreement and did not fit under any other agenda item. In this regard, he recalled that India had first raised the difficulties linked to the detection of residues of pesticides not registered in the importing country in March 2015, and circulated document G/SPS/W/284 in April 2015. In wrapping up discussions on the issue at the October 2015 meeting of the SPS Committee, the Chairperson had pointed to the possibility of holding a thematic session on this subject, and requested that the Secretariat prepare a draft programme for such a session, for discussion at the March 2016 meeting. The draft programme had been compiled based on Members' submissions and circulated as document G/SPS/GEN/1468.

5.2. The Chairperson proposed that either such a thematic session could be held on the margins of the July 2016 meeting, provided that the Committee agreed to go ahead, or alternatively, a workshop on the subject of pesticide residues could be organized in October 2016. The latter alternative would allow the Secretariat to fund the participation of a number of officials from developing and least-developed country Members in the workshop. In addition, the Secretariat would also have funding available for external speakers.

5.3. Canada welcomed the proposed draft programme, which it believed captured the full scope of the issue. The dedicated discussion would provide Members with a clear understanding of how the issue was addressed at the WTO, Codex and other multilateral fora as well as an opportunity to share specific national experiences. Canada suggested that the scope of the agenda could be



expanded to include MRLs for veterinary drugs. Canada further suggested that a full day session would be beneficial and was open to having a workshop in October 2016.

5.4. Japan thanked the Secretariat for preparing a comprehensive and well balanced draft programme and stated that it was open to holding the session in July 2016.

5.5. The European Union supported the proposed agenda and Canada's suggestion to include MRLs for veterinary drugs and noted its preference for an October 2016 workshop.

5.6. The United States also thanked the Secretariat for preparing the draft programme. The United States appreciated the extensive interest in the Committee on the topic and noted that as a practical matter, it would be better to hold the session in October 2016. The United States also preferred holding a longer session rather than a shorter one, given the efforts, time and resources involved in convening experts for the session.

5.7. Australia, Belize, Burkina Faso, Central African Republic, Chile, Comoros, Côte d'Ivoire, Guinea, Kenya, Madagascar, Nigeria, the Russian Federation, Saint Lucia, Senegal, the United States, Togo, and Zambia supported the proposal for holding the workshop on pesticide residues in October 2016 to facilitate optimal preparation and participation, with certain Members supporting also the inclusion of veterinary drug MRLs.

5.8. New Zealand stated that it was flexible regarding the time-frame but also inclined more towards holding the session in October 2016, given the possibility of funding for experts from developing countries.

5.9. India thanked the Secretariat and Members who had contributed to the draft programme. India proposed that the thematic session be held in July 2016 and was opposed to the proposal for holding a workshop in October 2016.

5.10. Codex informed Members that the area of pesticide residues and veterinary drugs involved two distinct processes and risk assessment bodies, and thus would require two different experts from Codex. Hence, Codex stated October 2016 would be a better period for the dedicated discussion since it allowed more time for preparation, particularly since this would be right after the meeting of the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF).

5.11. The Chairperson noted that in light of the discussion and various interventions, the Secretariat would go ahead and organize a workshop on the theme of pesticide MRLs in October 2016, based on the draft programme that had been circulated and discussed. The Chairperson asked Members to submit any comments on the programme by 13 May 2016.

5.12. India asked that the items it had suggested for the thematic session on pesticide residues be withdrawn from the programme and requested that this topic be placed on the agenda of the next SPS Committee meeting.

5.13. Burkina Faso took the floor to inform Members of the technical assistance from Japan regarding maximum residues limits for sesame. Burkina Faso requested a draft proposal for this standard, which could be incorporated by Codex.

## **6 IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT**

6.1. No Member took floor under this agenda item.

## **7 EQUIVALENCE – ARTICLE 4**

### **7.1 Information from Members on their experiences**

#### **7.1.1 Senegal – Memorandum of understanding with China on phytosanitary requirements for ground nut exports (G/SPS/GEN/1461)**

7.1. Senegal referred to its document G/SPS/GEN/1461 on equivalence in the context of China's recognition of the Senegalese SPS system related to groundnut exports. Senegal reported that its

exports were expanding to other markets such as Indonesia, Malaysia and Viet Nam, and confirmed to its new trade partners that the same procedures were in place to achieve an appropriate SPS protection level with regard to groundnut production in Senegal. Senegal also thanked China for the cooperation and the smooth implementation of their bilateral agreement which was now in its second year.

### **7.1.2 Madagascar – Memorandum of understanding with China for shrimp exports**

7.2. Madagascar informed Members about the equivalence arrangements in place with regard to fishery products. Since the last inspection mission of the Food Veterinary Office of the European Commission in June 2012, the regulatory measures applied by the competent authority (Autorité Sanitaire Halieutique) to products intended for the European market were recognized as equivalent to those provided in the European sanitary regulations. Further Madagascar reported that after an inspection mission to Madagascar in 2014, the competent Chinese veterinary authority had also recognized measures applied by the competent authority as equivalent to their measures. In 2014, Madagascar signed a Memorandum of Understanding with China that governed shrimp exports to the Chinese market.

7.3. China took the floor and thanked the both Madagascar and Senegal for their particular comments on cooperation on SPS requirements regarding their exports of groundnuts and shrimp to China. China highlighted that it attached great importance to friendly and mutually beneficial cooperation with African countries. China indicated that it welcomes high quality food and agriculture products from Africa on the Chinese market. China expressed that it looked forward to working more closely with Madagascar, Senegal and other African countries in good faith to boost economic growth in Africa.

### **7.1.3 Recognition of Equivalence**

7.4. The Secretariat reminded Members that the Committee's decision on equivalence laid out in G/SPS/19/Rev.2 encouraged Members to notify the recognition of equivalence. The Secretariat noted that a specific notification format for the recognition of equivalence existed and encouraged Members use it. The Secretariat also highlighted that the importing country recognizing the equivalence of a measure, or an aspect thereof, should be submitting the notification.

## **7.2 Information from relevant observer organizations**

7.5. No observer provided any information under this agenda item.

## **8 PEST- AND DISEASE-FREE AREAS – ARTICLE 6**

### **8.1 Information from Members on their pest or disease status**

#### **8.1.1 European Union – OIE recognition of Romania as a country with negligible BSE risk**

8.1. The European Union informed Members that in December 2015 the OIE had re-instated the status of "country with negligible BSE risk" to Romania. The relevant EU legislation was being amended to recognize this change and would be published in the coming weeks.

#### **8.1.2 Dominican Republic – Update on the pest and disease situation**

8.2. The Dominican Republic provided an update on its pest and disease situation, highlighting the progress made related to animal health in the country. Out of the six diseases for which the OIE had established procedures for official recognition of disease-free status, only one (Classical swine fever) remained. The Ministry of Agriculture planned to submit a report on the official OIE recognition of the country as free of the other diseases. The Dominican Republic had historically been free of FMD and had never practiced vaccination against this disease, which had been recognized by the OIE in May 2008. Furthermore, the Dominican Republic indicated that in 2013, it had initiated a programme for prevention and control of BSE, with the view to obtaining a risk controlled status. The Dominican Republic also highlighted that since 2006, the veterinary services had been implementing a surveillance plan for avian influenza, and a document had been to the

OIE on 27 January 2015. Finally, during 2014, the Dominican Republic had begun a national bovine programme to protect public health and monitor animal health in order to create confidence among trading partners.

### **8.1.3 Zambia – Tomato leaf miner surveillance**

8.3. Zambia informed Members that it was undertaking pest surveillance to establish pest status on *Tuta Absoluta*, commonly known as tomato leaf miner, as well as Maize Lethal Necrosis Disease (MLND). The results would be posted on the IPPC website upon completion of the surveillance.

### **8.1.4 Nigeria – Update on the avian influenza situation (G/SPS/GEN/1475)**

8.4. Nigeria provided an update on avian influenza in the country. A sharp rise in outbreaks had occurred in January and February 2016, with all outbreaks duly notified to the relevant international organizations and measures put in place to control the outbreaks. A regulation to control movement of poultry products from infected to non-infected states had been signed by the Minister of Agriculture. Nigeria was also participating in a World Bank regional disease surveillance and response project in West Africa that aimed to strengthen country health systems to mitigate risks posed by infectious and zoonotic diseases. Nigeria emphasized the threat avian influenza posed for Africa as a whole and requested technical assistance to address the issue.

### **8.1.5 Madagascar – Update on the pest and disease situation**

8.5. Madagascar shed light on its efforts in place to declare zones free of pests and diseases. Starting in April 2016, with the support of COMESA, Madagascar would introduce a surveillance mechanism to identify litchi producing areas free of fruit flies, which was a necessary requirement to export fresh litchi to the South African market. This initiative was part of the tripartite market development programme between COMESA-SADC-EAC. In 2016, Madagascar had also undertaken an FAO project financed through the Africa Solidarity Trust Fund which would support extending disease surveillance mechanisms to other crops destined for local markets and exports. This project was also available to seven SADC member countries, aiming to increase intra-regional trade in agricultural and food products. Madagascar also reported that in late 2016, the same project would support the Malagasy veterinary services to strengthen epidemiological surveillance for three animal diseases which were absent from the country, particularly bovine pleuropneumonia, peste des petits ruminants and FMD, to obtain and/or maintain OIE recognized disease free status. Madagascar also thanked its technical and financial partners for their assistance in carrying out the surveillance activities.

## **8.2 Information from Members on their experiences in recognition of pest- or disease-free areas**

### **8.2.1 Dominican Republic – Information on pest-free areas**

8.6. The Dominican Republic informed Members that in March 2015, it saw an outbreak of Mediterranean fruit flies in the eastern region. On 18 March 2015, the US Animal and Plant Health Inspection Service (APHIS) had issued a federal Decree that prohibited the entrance of certain animal and plant products from the Dominican Republic to the United States. On 31 March 2015, the Ministry of Agriculture had issued a resolution defining the strategies required to eradicate the outbreak and also established a surveillance system in the rest of the territory. The Dominican Republic also established an official high level committee to roll out the strategy for prevention and surveillance. Further, APHIS had issued a federal order that allowed the imports of tomatoes that were not affected by Mediterranean fruit flies to the United States. Now, a system for tracking Mediterranean fruit flies was in place. The Dominican Republic had received technical assistance from Guatemala and an agreement had been signed between the Ministry of Agriculture of the Dominican Republic, and another agreement between Mexico, Guatemala and the United States. In January 2016, APHIS issued DA 2016/03 to authorize imports from 23 provinces declared free of fruit flies. Since 9 January 2016, there had been restoration of trade between the countries. The joint effort of the Ministry of Agriculture and international organizations present in the country, along with the effort of the trade partners such as the United States, had led to positive results which were currently giving greater encouragement to completely eradicate the outbreak.

8.7. The United States thanked the Dominican Republic for its excellent cooperation on this issue and commended the efforts towards the eradication of Mediterranean fruit flies.

### **8.2.2 Chile – Difficulties in recognition of regionalization and application of the relevant international standard**

8.8. Chile provided information about its National Detection System for Fruit Flies (SNDMF), a fruit fly control programme administered by the NPPO, the Agricultural and Livestock Service (SAG). The programme was internationally recognized and had allowed SAG to ensure that Chile was a country free of Mediterranean fruit flies. In December 1995, Chile had become free of fruit flies and communicated this to the SPS Committee in document G/SPS/W/52 of 4 April 1996. Chile pointed out that the measures had been taken under the guidelines established by the IPPC through ISPM 4, ISPM 6, and ISPM 26. Chile described that the objective of this technical programme was to maintain a system of continuous surveillance which operated through the implementation of a network of traps set to enable early detection. Furthermore, a corrective action plan had been established for the event of a possible entry of the pest. In this regard, SAG periodically kept its counterparts in other countries informed of the situation of pest control measures. Chile noted that it had always provided necessary information or facilitated inspections. In addition, Chile highlighted that the natural barriers existing in the country helped keep it isolated from quarantine pests, such as fruit flies. Chile thanked the countries that had recognized the fruit fly-free status of the country and had allowed imports of fruits from Chile. Chile reminded Members that the SPS Committee had adopted the Guidelines to Further the Practical Implementation of Article 6 (G/SPS/48).

### **8.3 Information from relevant observer organizations**

8.9. No observer organization provided any information under this item.

## **9 TECHNICAL ASSISTANCE AND COOPERATION**

### **9.1 Information from the Secretariat**

#### **9.1.1 WTO SPS activities (G/SPS/GEN/521/REV.11 and G/SPS/GEN/997/REV.6)**

9.1. The Secretariat drew the Committee's attention to G/SPS/GEN/521/Rev.11, which provided an overview of all SPS specific technical assistance activities undertaken by the WTO Secretariat from 1 September 1994 to 31 December 2015. The document presented the number and type of activities delivered each year, including information such as the regions covered, languages used and participation of the international standard-setting bodies. The document showed that since 1994 there had been 345 SPS specific TA activities, with an overall participation of more than 13,000 persons. In 2015, 27 SPS-related training activities had been undertaken: three regional workshops; 13 national seminars; one Advanced SPS Course; one Thematic Workshop on Transparency; and nine courses organized by other organizations.

9.2. The Secretariat also indicated that document G/SPS/GEN/997/Rev.6 provided information on the planned technical assistance activities for 2016. The activities included the Advanced Course on the SPS Agreement (to be held in French) in October, and a thematic workshop to be held on the margins of the October SPS Committee meeting. The Secretariat highlighted that funding was available for officials from least-developed and developing countries to participate in these two activities, and that the deadline for applications was 3 June 2016. The Secretariat further indicated that it was still in the process of finalizing the exact number of participants that would be funded to attend the thematic workshop and the duration of the funded participation, in order to include attendance at the SPS Committee meeting, as done in the past. Additional details on the dates of these planned activities, eligibility criteria, prerequisites and application processes could be found in the document.

9.3. The Secretariat also informed Members of its new approach to deliver more effective and demand-driven regional workshops, which would entail working collaboratively with regional organizations to address SPS-related training needs identified within various regions. Using this approach, the WTO Secretariat would schedule regional SPS workshops in 2016 upon request from regional organizations, or from a Member in conjunction with a regional organization. This formal

request should be addressed to the Director of the Institute for Training and Technical Co-operation (ITTC) and submitted by fax or e-mail, indicating the purpose and expected outcome of the workshop, the expected contribution and the proposed dates. Programmes, prerequisites and selection criteria would be defined for each requested activity.

9.4. The Secretariat provided an overview of the activities held since the last SPS Committee meeting in October 2015. These activities included: two national seminars held in Oman and Sudan; regional SPS workshops for the Caribbean region (co-organized with the CARICOM Secretariat) held in Belize; the Asian region (co-organized with UNESCAP) – which covered both SPS and TBT – held in Thailand; and the Arab region (co-organized with the IMF-Middle East Centre for Economics and Finance) held in Kuwait. More general training on the SPS Agreement had also been provided in the following activities: WTO Advanced and Regional Trade Policy Courses; Workshop on Trade and Public Health, held in Geneva; SPS Training Programmes organized by the Swedish International Development Cooperation Agency (SIDA); a Graduate Institute Course on Trade, Diplomacy and Public Health; an IICA Technical Forum on "The Trade Facilitation Agreement and its relation to SPS measures" (participation via videoconference); an ASEAN Food Trade Forum entitled "*How can ASEAN become more Resilient to Food Crises under the ASEAN Economic Community?*"; and a SPS Briefing Session with African Union-funded participants.

9.5. The Secretariat also informed Members of upcoming national activities that were being scheduled for Angola, Iran, Madagascar, Pakistan and Panama. The E-Learning Course on the SPS Agreement was available all year-round in the three WTO official languages. Further information on SPS technical assistance activities could be obtained on the WTO website (under trade-related technical assistance) or by contacting the Secretariat.

9.6. Belize noted its appreciation for the Regional SPS Workshop held in Belize City in October 2015 and thanked the Secretariat, STDF, OIE, IPPC, Codex, the CARICOM Secretariat and IICA for their efforts in making the workshop a success. The programme included, in addition to the standard topics related to the SPS Agreement and implementation, a field trip to a papaya packing facility (featured in the STDF film "*Trading safely*") to observe aspects of the certification component under the Medfly Surveillance Programme. Belize encouraged the Secretariat to include, where possible, field trips such as this as part of future training programmes as it allowed experts to exchange experiences and fostered South-South cooperation.

### 9.1.2 STDF (G/SPS/GEN/1470)

9.7. The STDF secretariat provided an overview of its activities as circulated in document G/SPS/GEN/1470, as well as an update on decisions made by the STDF Working Group that had met on 14-15 March 2016. The STDF secretariat provided information on the information session about "Prioritizing SPS Investments for Market Access" (P-IMA), which briefly presented the new P-IMA user Guide and included experiences from countries that have used this approach. A STDF briefing note on the P-IMA framework was also available on the STDF website: [http://www.standardsfacility.org/sites/default/files/STDF\\_Briefing\\_No11\\_PIMA\\_EN.pdf](http://www.standardsfacility.org/sites/default/files/STDF_Briefing_No11_PIMA_EN.pdf).

9.8. In the context of the side event that had been organized by CBD on the margins of the SPS Committee meeting, the STDF secretariat highlighted its publication on invasive alien species which had been collaboratively undertaken with the OIE and IPPC. The study was available on the STDF website: [http://www.standardsfacility.org/sites/default/files/STDF\\_IAS\\_EN\\_0.pdf](http://www.standardsfacility.org/sites/default/files/STDF_IAS_EN_0.pdf). The STDF secretariat also drew the Committee's attention to its work on trade facilitation in the context of the SPS Agreement, which included: a film on "*Safe Trade Solutions*" (<http://www.standardsfacility.org/video-gallery>); and a short SPS briefing note which provided an overview of good practices to improve the implementation of SPS controls ([http://www.standardsfacility.org/sites/default/files/STDF\\_Briefing\\_No10\\_EN\\_web.pdf](http://www.standardsfacility.org/sites/default/files/STDF_Briefing_No10_EN_web.pdf)).

9.9. The STDF secretariat announced an information seminar on electronic SPS certification (e-certification) which would be held on 5 July 2016<sup>2</sup>, with the objective of sharing information and experiences about the use of e-certification in the SPS area, including the identification of key challenges and opportunities for developing countries. The STDF secretariat was also preparing a

<sup>2</sup> Now confirmed for 28 June 2016.

briefing note to highlight the results of a joint study undertaken with the Enhanced Integrated Framework (EIF) secretariat that analysed the coverage of SPS issues in EIF Diagnostic Trade Integration Studies (DTIS) and identified good practice for future studies and their implementation.

9.10. The STDF Working Group had approved four Project Preparation Grants (PPGs) benefitting India, Guatemala, Zimbabwe and Papua New Guinea. No new projects had been approved. The STDF secretariat expressed its appreciation to its founding partners, other international organizations and developing country experts for their support and inputs into the process. The STDF secretariat also thanked all current donors for their contributions and highlighted the need for additional resources to continue the work of the STDF.

9.11. Nigeria expressed its appreciation for the good work of the STDF and appealed to donors to provide additional resources in order to enable the continued funding of STDF projects.

## **9.2 Information from Members**

### **9.2.1 Senegal – Technical assistance received**

9.12. Senegal acknowledged the technical assistance received from the Enhanced Integrated Framework and the support provided through a special fund to improve the competitiveness of Senegalese and West African mangoes. Several technical assistance activities had been undertaken with 700 targeted focal points, impacting approximately 7,000 participants throughout the value chain of the mango sector and resulting in a 15 per cent increase in mango production.

9.13. Senegal also drew the Committee's attention to the support program aimed at controlling fruit flies, during the period 2015-2019. A workshop to launch the programme had been held in Dakar from 22-25 February 2016 and national committees had been set up to oversee the implementation of the project. Senegal suggested that a continental response, entailing collaboration between the Inter-African Bureau for Animal Resources (AU-IBAR) and the STDF, could provide an appropriate solution to address such pest-related issues that pose significant risk to countries.

### **9.2.2 Nigeria – Technical assistance received**

9.14. Nigeria indicated its appreciation for the technical support provided to its Agricultural Quarantine Service by the European Union in the area of integrated pest management and pesticide residues. Assistance had also been provided by the European Union through a GIZ-implemented programme which had facilitated Nigeria's notifications in 2015. Nigeria recognized the support received from USDA and USAID for the review of its national food safety policy, as well as assistance provided by other partners FAO and UNIDO. Nigeria commended the technical and financial assistance received from the Inter-African Bureau for Animal Resources (AU-IBAR), which had contributed to its improved SPS expertise and active participation in SPS Committee meetings.

9.15. Nigeria also reported on the support received from the STDF on expanding its exports of sesame seed and shea butter, and mitigating the harmful effects of pesticide residues in cocoa in several African countries. Nigeria had applied for additional STDF support and hoped its applications would be approved.

### **9.2.3 Jamaica – Pest risk analysis training**

9.16. Jamaica thanked the European Union, through its 10<sup>th</sup> EDF-SPS Project, and IICA for funding its participation in the SPS Committee and for facilitating a pest risk analysis training on 15-19 February 2016. Thirteen plant health officials, from various branches of the Ministry of Agriculture and extension services, had benefitted from the training. Topics included legal and international regulatory frameworks for risk analysis, pest risk management and risk communication. Jamaica highlighted the importance of the training in strengthening Jamaica's position as one of the NPPOs that use pest risk analysis as the scientific basis for implementing phytosanitary measures. The training had equipped the pest risk review team with the needed insights to facilitate informed and guided peer reviews.

#### **9.2.4 Zambia – Technical assistance received**

9.17. Zambia acknowledged the technical and financial support that had been provided by several development partner organizations in the plant health area. Through funding provided by the Africa Solidarity Trust Fund (ASTF), with implementation by FAO, the capacity of the NPPO was being strengthened through the training of plant health inspectors in pest diagnostics. Other actions undertaken with this support included: the successful implementation of a STDF project preparation grant to strengthen phytosanitary capacity; and the ongoing development of a follow-on STDF project grant application. Zambia also informed the Committee of the technical assistance being provided by the International Maize and Wheat Improvement Centre (CIMMYT) to enhance surveillance of the maize lethal necrosis disease (MLND).

#### **9.2.5 Madagascar – Technical assistance received and requested**

9.18. Madagascar acknowledged the support provided by the European Union-funded EDES Programme from July 2013 - November 2015. This programme had focused on strengthening the national food safety system through training programs for: competent authorities; the agro-food industry; consumer associations; and scientific experts responsible for health risk assessments. EDES support had also facilitated a thorough audit of three testing laboratories, with international expertise, in early 2015. In addition, a national legal expert had facilitated the finalization of Madagascar's food bill which was notified to the WTO.

9.19. Madagascar informed Members that it had adopted a new Act on the Code of Fisheries and Aquaculture (No. 053/2015 of 12 February 2015) with the support of FAO. The technical assistance provided by the AU-IBAR, through its PAN-SPSO project, had also facilitated the ongoing establishment of its National SPS Committee. Madagascar extended its appreciation to its financial and technical supporters, particularly the African Union, for its assistance in enhancing Madagascar's participation in the SPS Committee meetings.

9.20. Madagascar requested technical assistance for the implementation of FSMA in order to increase its market access to the United States. Support could be provided in the form of technical sessions covering the obligations of exporters, such as implementation of the HACCP plan, traceability, packaging and labelling. Other technical sessions could include the inspection and certification process undertaken by the competent authority, and assessment of risk by scientists. Madagascar further requested that the new legislation be made available in French, in order to better enable its relevant stakeholders to comply with the regulations.

#### **9.2.6 Guinea – Technical assistance received**

9.21. Guinea acknowledged the assistance received through an EIF project, involving several partners such as ITC, which had enabled greater market access for its exports through its increased compliance with SPS requirements. Guinea was also benefitting from a regional fruit fly control programme in West Africa and expressed its appreciation for the support provided by the European Union, the French Development Agency (AFD), ECOWAS and UEMOA.

#### **9.2.7 Burkina Faso – Technical assistance received**

9.22. Burkina Faso informed the Committee that it had received technical assistance to combat fruit flies, under a regional project funded by several organizations, including the European Union and the French Development Agency. The project included surveillance and research activities in order to gain market access (e.g. mangoes) and to enhance product quality at the national level. A National Committee to combat fruit flies had also been established.

9.23. Burkina Faso acknowledged the ongoing EIF technical assistance which had assisted in outlining the required specifications for sesame exports. Burkina Faso also expressed its appreciation for the support provided by Japan, through its International Cooperation Agency (JICA), to improve the production of sesame. The technical and financial assistance provided by the African Union for its participation in the SPS Committee was recognized, as well as the technical support provided by the WTO Secretariat.

### **9.2.8 Saint Lucia – Technical assistance received**

9.24. Saint Lucia thanked the Pan American Health Organization (PAHO) for its assistance in the formulation of its Food Safety Emergency Response Plan, and the European Union for its support in the screening of the Food Safety System under the European Union-funded Banana Accompanying Measures (BAM) – Agricultural Transformation Programme (ATP). Saint Lucia further expressed its appreciation to the European Union and IICA for funding its participation in the SPS Committee.

### **9.2.9 Comoros – Technical assistance received**

9.25. Comoros thanked the Secretariat, STDF and the African Union for the various forms of technical assistance that it had received from these bodies.

## **9.3 Information from observer organizations**

### **9.3.1 OIE (G/SPS/GEN/1478)**

9.26. OIE noted its continued global initiative to support member countries to strengthen the veterinary and aquatic health services using the OIE PVS pathway. OIE drew the Committee's attention to the summary of the PVS programme annexed to the OIE report G/SPS/GEN/1478, highlighting the inclusion of information on the aquatic animal health service PVS and the PVS follow-up missions in this latest report.

### **9.3.2 IPPC**

9.27. IPPC informed Members of its decision to broaden the focus of its regional workshops from providing information on how to provide comments on relevant standards under development, to include more emphasis on developing other capacities. In this regard, IPPC highlighted several challenges being experienced by its members, such as unfamiliarity with some of the existing IPPC systems and lack of compliance with national reporting obligations under the IPPC.

9.28. IPPC expressed appreciation for the collaborative work undertaken with the OIE and Codex, as well as the STDF secretariat and the STDF Working Group, underscoring the strengthened coordination among these bodies in building SPS capacity at the global level.

### **9.3.3 Codex**

9.29. Codex informed the Committee that it would be disseminating to its members, training materials on its existing systems, such as the online comment system that had been developed with IPPC. Codex also noted that preparations were currently under way to hold a workshop for Codex host governments and Codex chairpersons, in order to better support them in their role.

### **9.3.4 IICA – Technical assistance activities (G/SPS/GEN/1471)**

9.30. IICA reported on its technical assistance activities, as detailed in SPS/GEN/1471, highlighting its involvement in three STDF projects: (i) strengthening the phytosanitary capacity in South America, in partnership with the Southern Cone Plant Health Committee (COSAVE) and IPPC; (ii) development of a regional food safety inspection school in Central America and the Dominican Republic; and (iii) development of pest surveillance capacity in Central America. IICA informed the Committee of its ongoing capacity building activities to raise awareness about FSMA. Funding from USDA, FDA and USAID had facilitated translation of materials on the FSMA preventative controls rule.

9.31. IICA further acknowledged the assistance provided by the European Union, under the 10<sup>th</sup> EDF, which had facilitated several training activities, such as the One Health Leadership Series which had been undertaken in partnership with PAHO, WHO and several other organizations. Forty future and current leaders had been trained in 15 countries targeted by the project. IICA also highlighted an impact study on private standards, undertaken through the EDF, which was expected to be presented in the next Committee meeting. Other activities included: a training programme on antimicrobial resistance (AMR); pilot surveillance programmes in seven countries; and reviews of food safety, animal health and plant health bills (with FAO, OIE and the European



Union). IICA further acknowledged the support provided by the European Union for the participation of Barbados, Belize, Guyana, Jamaica and Saint Lucia in the SPS Committee meeting.

9.32. IICA highlighted its collaboration with Chile and USDA FAS to strengthen national Codex committees in Guyana, Jamaica, Saint Lucia, Suriname, and Trinidad and Tobago. IICA also supported STDF's appeal for additional funding.

### **9.3.5 SADC (G/SPS/GEN/1474)**

9.33. The Chairperson drew attention to a report submitted by SADC contained in G/SPS/GEN/1474.

### **9.3.6 OIRSA – Relevant activities (G/SPS/GEN/1476)**

9.34. OIRSA provided an update on its activities of interest to the SPS Committee in document G/SPS/GEN/1476. OIRSA highlighted its ongoing collaboration with FAO, IICA and other international organizations within the region, in order to better coordinate technical assistance activities in the area of agricultural health. Given the importance of climate change, this variable was increasingly being factored into projects, in order to take into account the potential impact on agriculture health and to find ways of improving the results of projects. OIRSA indicated that it was also widening its support to include agriculture health organizations in the area of port inspections and other issues related to quarantine.

### **9.3.7 ACP Group (G/SPS/GEN/1482 and G/SPS/GEN/1483)**

9.35. The ACP Group provided an overview of its activities undertaken in the area of SPS technical assistance and capacity building through two EU-funded programmes: the Europe-Africa-Caribbean-Pacific Liaison Committee (COLEACP) (G/SPS/GEN/1482); and the ACP-EU TBT Programme (G/SPS/GEN/1483). Since 2001, the ACP, through COLEACP had provided three technical assistance programmes to support the compliance of ACP exports of fresh produce with EU food safety regulations. Two of these programmes (Pesticides Initiative Programme – Phases 1 and 2) had provided technical assistance to private sector operators and small-scale farmers to meet food safety regulations. The third programme (EDES) had been a response from the European Union to the introduction of food and feed control regulations which had come into force in 2006, and addressed the requirement of third countries exporting to the European Union, to adapt their SPS regulatory, supervisory and monitoring systems. The EDES programme had resulted in strengthened national food safety policies and systems of the beneficiary countries. More information on these programmes could be found in G/SPS/GEN/1482.

9.36. The ACP-EU-TBT programme had been designed to enhance the ACP quality infrastructure institutions and to facilitate inter-regional trade by coordinating and harmonizing technical regulation standards and conformity assessment procedures. The programme had also been used to promote ACP interests in TBT-related international fora, in particular the WTO TBT Committee. Since 2013, the programme had implemented 65 projects, mostly linked to TBT issues, but an SPS component had also been included which focused on testing, inspection, certification and food safety risk assessment. More information on this programme could be found in G/SPS/GEN/1483.

9.37. The ACP Group of States stressed the importance of SPS technical assistance, particularly in the context of the increased number of regional trading blocs and FTAs, and further highlighted the need for continued technical and financial assistance by the WTO at the ACP level and its sub-regions, in light of the completion of several EU support programmes, including COLEACP.

### **9.3.8 ITC**

9.38. The ITC provided a report on recent activities of interest to the SPS Committee (G/SPS/GEN/1484) which included an update on multiple on-going projects and the status of its work on non-tariff measures and impact stories. More information was available on the ITC website: <http://www.intracen.org/exporters/quality-management/>. ITC also supported the request for additional funding to be provided to the STDF.

### 9.3.9 African Union Commission

9.39. The African Union Commission (AUC) provided a report on recent activities of interest to the SPS Committee (G/SPS/GEN/1480) that included updates on events convened by the AUC, African Union Interafrican Phytosanitary Council (AU-IAPSC) and the African Union Interafrican Bureau for Animal Resources (AU-IBAR). Some of the activities included the first meeting of the Continental SPS Committee for Africa which was held in October 2015, in the margins of the African Day for Food and Nutrition Security in Uganda. The Continental Committee had discussed the launch of the Continental Free Trade Area (CFTA) Negotiations Forum and the role of the Continental Committee in supporting the work of the Technical Group on SPS and TBT. The terms of reference for the Continental SPS Committee had been agreed at this meeting to focus on three broad areas: SPS capacity development; coordination and harmonization of SPS issues; and policy guidance and advocacy. Additional information on training activities concerning animal health and food safety was available in document G/PSS/GEN/1480.

## 10 REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT

### 10.1 Fourth Review

10.1. The Chairperson reiterated his view, expressed in October last year, that the three issues – the recommendations relating to private standards in the Review Report, the working definition of the term "SPS-related private standards" and the future work on this issue – were linked and could only be resolved together. The Chair reminded the Committee of the language that he had proposed in October 2015 as a starting point for discussion, which had been subsequently circulated as document RD/SPS/6. Consultation with Members had also taken place in January 2016.

#### 10.1.1 Report of the informal meeting

10.2. The Chairperson reported on an informal meeting on how to advance the work of the Committee that had been held on 15 March 2016. He had begun that meeting by recalling the main purpose of the meeting, which was to find a way out of the impasse with the work on the Fourth Review on one hand, and with SPS-related private standards on the other.

10.3. The Chairperson had first summarized the work of the Committee on these two topics, and then the Committee had discussed two proposals received, from Norway (G/SPS/W/289, circulated on 29 February 2016) and Brazil (circulated through the SPS contact mailing list on Monday, 14 March).

10.4. The Chairperson had recalled that according to the agreed process and timetable, the Fourth Review should have concluded in October 2014. Two documents had been in front of the Committee for adoption in this context: (i) the Catalogue of Instruments; and (ii) the draft report of the Fourth Review.

10.5. The joint submission by Canada and Kenya on the Catalogue of Instruments (G/SPS/W/279/Rev.2) had not been adopted because Members had different views on the need to add a disclaimer to clarify its legal status.

10.6. The draft report of the Fourth Review had first been considered for adoption in October 2014. However, the Committee had not reached consensus on two specific recommendations: (i) the fourth recommendation under the transparency section; and (ii) the second recommendation under the SPS-related private standards section. The divergence in Members' views had remained unchanged after a new revision of the draft report, the current one, had been circulated in November 2014 (G/SPS/W/280/Rev.2).

10.7. During 2015, in an effort to bridge differences on these two issues, in addition to the March and July informal meetings, the Chairperson had held consultations in May and June on the Catalogue and on the draft Report respectively, and in September on both topics. Unfortunately, Members' views had remained profoundly divided. No new views on how to bridge the differences had emerged.

10.8. Regarding SPS-related private standards, the Chairperson had recalled that Members had been discussing a working definition since 2011, when the Committee had adopted the five actions (G/SPS/55) and in October 2013, the Committee had tried moving the process forward by forming an electronic working group (e-WG), which had focused on Action 1, namely on developing a working definition of an SPS-related private standard. Unfortunately, in March 2015, despite the long history of the Committee's work on this matter, and in particular the hard work of the e-WG under the able leadership of the co-stewards, the Committee had agreed that the e-WG would take a cooling-off period since it had not been possible to reach consensus on a working definition.

10.9. On this basis, during the Committee's last meeting in October, the Chairperson had suggested addressing the Review Report, and more specifically the recommendations in para. 14.20 on future work regarding SPS-related private standards, together with the working definition of SPS-related private standards and possible future actions. In the Chairperson's view, these three issues were linked and could only be resolved together. Therefore, the Chairperson had put forward, on his own responsibility, a package for the Committee's consideration, as a basis for further discussion (RD/SPS/6).

10.10. In January 2016, the Chairperson again had held informal consultations to continue the dialogue and prepare the ground for a possible resolution this week. No new views had been expressed and some Members had reiterated their preference to continue these discussions during informal meetings prior to the regular Committee meetings, when capital-based colleagues were present. On this basis, the Chairperson had decided not to hold further consultations in February, but to schedule the informal meeting of the Committee on Tuesday, 15 March.

10.11. At the informal meeting, no Member had made reference to the Catalogue of Instruments. With regard to the Fourth Review and private standards, the Committee had discussed the submissions by Norway and Brazil. While each proposal had received support from some Members, it was clear that none of them had been acceptable to all. Also, some Members had needed more time to consider Brazil's proposal, which had only been circulated the day before. Several Members had been of the view that the adoption of the draft report should not be delayed any longer. Even after its adoption, the Committee could continue working on all issues on which no consensus had been reached to date.

10.12. Recognizing the interest expressed by some Members to close the report, and taking advantage of the presence of capital-based delegates this week, the Chairperson had invited interested Members to work on a possible solution in the margins of the Committee meeting.

#### **10.1.2 Adoption of the report of the Fourth Review (G/SPS/W/280/Rev.2)**

10.13. The Committee agreed to jointly address Agenda Item 10(a)(ii) – Adoption of the Report of the Fourth Review (G/SPS/280/Rev.2), along with Agenda Item 12 – Concerns with Private and Commercial Standards. The Chairperson recalled that Members had been invited, at the end of the informal meeting, to further engage in open-ended discussions, in order to identify possible ways forward. The Chairperson invited Norway and Brazil to report on these discussions.

10.14. Norway thanked the Chair for his proposed package and first clarified that the starting point for Norway's proposal, submitted prior to the Committee meeting, had been G/SPS/W/280/Rev.2. Norway informed the Committee of the open-ended discussions that had taken place following the informal meeting on 15 March, which had been attended by approximately 15 delegations. The proposals submitted by Norway and Brazil had provided the basis for the discussions, with focus placed on answering a key question – whether it was possible to draft a second bullet point of paragraph 14.20 that was fully compatible with the views of both sides with regard to the scope of the SPS Agreement, and the appropriate role of the SPS Committee. Members had outlined various options and red lines in this discussion, as well as agreed to work inter-sessionally on both sides of the debate in two self-selected groups led by Brazil and Norway. The objective would be to develop fresh proposals from both perspectives for discussion in July, in order to close the gap and adopt the report. Norway further requested clear guidance from the Chairperson on the timelines for submission of new proposals by the two groups.

10.15. Brazil shared Norway's assessment of the open-ended informal meeting, underscoring the frank nature of the discussions which had allowed Members to clearly indicate their red lines. Moving forward, discussions would take place between Brazil and Norway, as well as with other Members who had expressed interest in being engaged in the process. Focus would be placed on how to draft the second bullet of paragraph 14.20 in a way which reflected both views, in order to adopt the report of the Fourth Review. Brazil further underscored the need for flexibility in both groups, with a view to bridging the existing gap. Brazil invited Members interested in the process to either contact them or Norway, and further reiterated Norway's request for the Chairperson to provide guidance on the timeline for the process.

10.16. The Chairperson emphasized that the issue at hand was the adoption of the report and that solving this issue would necessitate tackling one of the recommendations in the report. Members would need to find common ground on how to address the second recommendation on SPS-related private standards and this would entail dealing with the substantive issue of private standards. The Chairperson recalled that there were two different views on private standards and explained that the two groups would tackle these different views, in order to develop common text or proposals, with Brazil and Norway as coordinators. The Chairperson extended an invitation to interested delegations to approach Brazil and Norway.

10.17. China expressed its concern about the longstanding discussions on the coverage of private standards in the SPS Agreement, and the resulting difficulties encountered in developing a definition of SPS-related private standards. China observed that this issue had divided Members to such a degree, that it had prevented the adoption of the report of the Fourth Review. China further stated that the SPS Committee did not have the authority or the mandate to interpret the scope of the SPS Agreement, as indicated in Article 9.2 of the Marrakesh Agreement. China urged Members to refrain from prejudging the scope of the Agreement, and to seek common ground and set aside differences on this issue, in order to move out of the current deadlock.

10.18. The Chairperson proposed that the two groups work internally and collaboratively in order to develop drafting suggestions – whether agreed text or proposed texts – which would be sent to the Secretariat by the end of May 2016. The Secretariat would further circulate these proposals to Members for review and submission of comments and/or suggestions to the Secretariat. The comments from Members would be circulated before the July 2016 Committee meeting, in order to facilitate informal consultations in July.

### **10.1.3 Adoption of the Catalogue of Instruments (G/SPS/W/279/Rev.2)**

10.19. The Chairperson reminded Members that there had been no reference to the legal disclaimer during the informal meeting.

10.20. Canada thanked Kenya and the Secretariat for their ongoing work to advance the Catalogue of Instruments. Canada recalled that in March 2015, the Committee had been poised to adopt the document but had been unable to do so, due to concerns about the need for inclusion of a disclaimer. Discussions in subsequent meetings had further highlighted that while some Members were steadfast in their belief that the Catalogue required a disclaimer, others Members were equally of the view that the document must not have a disclaimer. Canada reiterated its view that the document did not need a disclaimer, recalling that the document did not include any new commitments or requirements for Members; neither did it seek to interpret the SPS Agreement, nor set out a mandatory process to resolve bilateral trade issues.

10.21. Canada further indicated its willingness to consider the inclusion of appropriate language if Members decided on the need to have a disclaimer, in order to move towards consensus. Canada reiterated that the document would be a useful tool for Members and expressed its disappointment that no clear way forward had been identified for the adoption of the document. The document focused on capturing all the tools available to WTO Members to manage bilateral SPS issues and took into consideration the various avenues available to Members including the SPS Agreement, the SPS Committee and the international standard setting bodies. Canada further stated that the document had been developed in a consultative manner, and that Canada and Kenya had attempted to capture all the comments received. Canada urged the Committee to adopt the document, while reminding Members that the tool was available for use as a reference guide, even

prior to its formal adoption. Canada noted its willingness to resolve this issue and further highlighted that it would continue its efforts to advance the document.

10.22. Kenya echoed Canada's views, emphasizing the consultative nature of the work undertaken to advance the adoption of the document and the inclusion of the numerous submitted comments. Kenya thanked Members for the support received so far, while underscoring that the catalogue only sought to illustrate the instruments that the Committee had adopted in the last 20 years, as well as the work of the standard-setting bodies. Kenya reiterated that the document did not create new commitments for Members, nor did it seek to interpret the Agreement. Kenya urged Members to resolve this issue so that the document could be adopted.

10.23. The Chairperson recognized the importance and relevance of the document, and the efforts by Canada and Kenya in the development of the document. The Chairperson noted that the discussions on the issue of the inclusion of a disclaimer went beyond the SPS Committee and that there might be challenges in addressing this issue. The Chairperson remained committed to working on this issue to see what progress could be made for the next Committee meeting.

## **11 MONITORING OF THE USE OF INTERNATIONAL STANDARDS**

### **11.1 New Issues**

#### **11.1.1 United States – BSE restrictions not consistent with the OIE International Standard**

11.1. The United States expressed concern that some Members maintained unjustified BSE restrictions that were inconsistent with the OIE international standards. The United States reiterated its commitment to aligning its import regulations governing BSE OIE guidelines and further highlighted that in 2013, the USDA APHIS had published a final rule in the Federal Register that ensured US BSE import regulations were aligned with international animal health standards that support safe trade in bovines and bovine products. This final rule became effective on 4 March 2014, and aligned US regulations with the OIE's criteria for classifying regions as negligible, controlled and undetermined risk for BSE. APHIS had also published a Notice in the Federal Register on 4 December 2015, advising the public of preliminary concurrence with the OIE's BSE negligible risk designations for sixteen regions, including India, Korea, and 14 European countries.

11.2. The United States highlighted its negligible risk BSE status, while noting the numerous unjustified restrictions it faced in its exports of live bovines, bovine meat and other products. The United States expressed its appreciation to several trade partners, including Peru and South Africa, who had recently lifted trade restrictions on these products and further requested all Members to remove any remaining BSE-related import prohibitions on bovines and bovine products of US-origin, in accordance with its OIE-recognized BSE negligible risk status. Moreover, the United States urged Members to recall that products such as protein-free tallow, and blood and blood products, which were deemed safe by the OIE regardless of a country's BSE risk status, should not be subject to BSE-related import restrictions.

#### **11.1.2 United States – Phytosanitary certificate requirements for processed food products**

11.3. The United States raised concerns regarding Members' use of phytosanitary certificate requirements for processed products, as set out in ISPM 32 on 'Categorization of Commodities according to their Pest Risk'. This standard categorized products into four categories, whereby category 1 products were defined as commodities having been processed to the point where they did not remain capable of being infested with quarantine pests. The United States explained that in such cases, no phytosanitary measures should be required and that such a commodity should not be deemed to require phytosanitary certification. The United States further noted that Annex 1 to ISPM 32 provided examples of processes and the resultant commodities that could meet the criteria for category 1, e.g. cooking, fermentation, etc. Furthermore, Appendix 2 provided some illustrative examples of commodities meeting the criteria for category 1, such as cotton lint, flour and industrial products made of cereal, potato starch and many more. The United States expressed its concern that some Members continued to require phytosanitary certification for

products that had been sufficiently processed to mitigate any pest risk, and that this trend had been increasing rather than diminishing in recent years. The United States urged those Members to employ a risk-based approach and to act consistently with the guidance of ISPM 32, by not imposing any phytosanitary measures or requiring phytosanitary certification for such products.

11.4. Canada supported the concerns of the United States and encouraged Members to use international standards when establishing phytosanitary measures, and to support the principles set out in ISPM 32. Canada highlighted that this standard encouraged Members to take into account factors such as the level of processing of the products in considering their categorization. Canada further indicated its appreciation to the IPPC for hosting a training session on ISPM 32 in April 2016, prior to the 11<sup>th</sup> Session of the CPM.

11.5. The IPPC expressed its appreciation to the United States and Canada for raising the issue of ISPMs and urged Members to contact the IPPC should they have any queries related to IPPC standards or their interpretation. The IPPC also indicated its continuous efforts in capacity building activities to assist developing countries in implementing and adhering to these standards.

### **11.1.3 Argentina – Measures on bovine semen and reproductive material more restrictive than the OIE Standard**

11.6. Argentina shared its concern regarding the FMD-related restrictions for bovine semen and bovine embryos implemented by several Members, which were more restrictive than the OIE recommendations. Argentina observed that these Members were applying measures which were not in accordance with several Articles of the OIE Terrestrial Code, such as Articles 8.8.15, 8.8.17 and 8.8.19. Argentina recalled the OIE's status as one of the international standard-setting bodies under the SPS Agreement, highlighting Members' obligations under Article 3 of the SPS Agreement. Argentina further emphasized the science-based nature of the SPS Agreement and underscored the principle of harmonization as a pillar which provides predictability in trade, while preserving the life and health of humans, animals and plants. Argentina urged Members to respect the international standards of the OIE and called for the removal of unjustified barriers to trade, particularly those applied to bovine semen and bovine embryos due to FMD.

### **11.1.4 Senegal – Application of ISPM 13 on notifications of non-compliance**

11.7. Senegal raised concerns regarding the provisions contained in ISPM 13 on notifications of non-compliance, noting that non-conformity in relation to emergency actions was not well documented by Members. Senegal observed that ISPM 13 required the importing party to deliver a range of documentation, in the event of destruction, to the relevant competent authority. Senegal highlighted that this issue mainly concerned its exports of plant and fishery products to the Russian Federation and the European Union. Senegal requested the Russian Federation to review the requirements for notifying non-conformity and to further provide information in this regard.

11.8. Burkina Faso supported Senegal's concern with regard to the use of the guidelines for the notifications of non-compliance in emergency cases. Burkina Faso cited the example of the destruction of its mangos exported to the European Union and further requested information on the implementation of ISPM 13 in such cases, so as to understand the problems faced by economic operators.

## **11.2 Issues previously raised**

11.9. No Member took floor under this agenda item.

## **12 CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS**

12.1. The Chairperson reminded the Committee that concerns with private and commercial standards had been discussed under Agenda item number 10.a.(ii) – Adoption of the report of the Fourth Review (G/SPS/W/280/Rev.2).

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## **13 OBSERVERS**

### **13.1 Information from observer organizations**

#### **13.1.1 IICA – Working Group to improve the capabilities of the countries of the Americas for sanitary and phytosanitary risk assessment**

13.1. IICA informed the Committee of the approval of a resolution entitled "Working Group to Improve the Capabilities of the Countries of the Americas for Sanitary and Phytosanitary Risk Assessment" at the 18<sup>th</sup> meeting of the Inter-American Board of Agriculture (IABA) held in October 2015. IICA would establish a working group comprised of relevant regional organizations and also organize a meeting in Costa Rica to discuss current approaches to risk assessment; national and regional challenges; capacity building needs and risk assessment; and strategies for improving the capacities of member countries and organizations. The result of the meeting would be a document explaining the current state of SPS risk analysis, and areas that need improvement, as well as proposed solutions to address deficiencies. IICA thanked Brazil for its interest and support for the development of this initiative.

13.2. Brazil thanked IICA for informing the Committee of this initiative to improve the capacity of member countries in the area of SPS risk analysis, and further expressed its full commitment to participate and support the initiative.

#### **13.1.2 OECD – Activities of Interest to the SPS Committee**

13.3. The OECD referred to its submission G/SPS/GEN/1479 highlighting activities of interest to the SPS Committee, including a new OECD report on "Alternative Futures for Global Food and Agriculture" (available on <http://oe.cd/alternative-futures>) and a meeting to be held at the OECD headquarters in Paris on 7-8 April 2016 titled "Better Policies to Achieve a Productive, Sustainable and Resilient Global Food System" (available at <http://www.oecd.org/agriculture/ministerial>). Other activities included: OECD work related to Trade-related International Regulatory Cooperation; and a workshop on "Economics of Antimicrobial Use in the Livestock Sector and Development of Antimicrobial Resistance", held on 12 October 2015 (available on <http://oe.cd/amr2015>).

#### **13.1.3 GSO – Activities of Interest to the SPS Committee**

13.4. GSO updated Members on its recent SPS-related activities in the Gulf region. Through the work of GSO committees, sub-committees and working groups, GSO had developed standards and technical regulations, most of which were directly adopted from international standards and complied with consumer protection, environmental and health requirements. GSO further informed the SPS Committee that its member States had submitted more than 500 SPS notifications.

13.5. GSO informed the Committee of its continued engagement, at a technical level, in many regional initiatives such as the Gulf Committee for Food Safety, as well as working groups for the development of GCC unified food regulations; a rapid Alert System for food and feed in the Gulf region; and the development of a manual of procedures for the monitoring of food trade, collaboratively undertaken by the Gulf Nutrition Committee and Ministries of Health in the region. GSO also highlighted its leading role, through its halal food working group, in the development and updating of various halal food standards. Other activities included GSO's participation in the WTO Regional SPS Workshop held in Kuwait in January 2016.

13.6. With regard to transparency, GSO had initiated the process of streamlining and harmonizing notifications among its member States. This entailed collaborating with the secretariats of the SPS and TBT committees in order to develop a mechanism for the joint notification of measures.

#### **13.1.4 ISO – Activities of Interest to the SPS Committee**

13.7. ISO informed Members that its new strategic plan for ISO (2016-2020) had been completed and approved by the ISO Council. The five focus areas included: developing high quality standards; stakeholder engagement; communication around standards; people and organizational

development; and use of technology in the development of standards. More information was available on [http://www.iso.org/iso/home/iso\\_strategy\\_2016-2020\\_en\\_lr.pdf](http://www.iso.org/iso/home/iso_strategy_2016-2020_en_lr.pdf).

13.8. ISO further indicated that it had completed and approved the Action Plan for Developing Countries which focused on the development and strengthening of national quality infrastructure, including conformity assessment, accreditation and standards development. More details were available on the website [http://www.iso.org/iso/iso\\_action\\_plan\\_2016-2020\\_en\\_ld.pdf](http://www.iso.org/iso/iso_action_plan_2016-2020_en_ld.pdf).

## **13.2 Requests for observer status (G/SPS/W/78/Rev.13)**

### **13.2.1 New requests**

13.9. There were no new requests received by the Secretariat.

### **13.2.2 Outstanding requests**

13.10. The Chairperson reminded the Committee that in 2012, it had agreed that if for any one-year period an ad hoc observer organization did not attend any meetings of the SPS Committee, its observer status would lapse, but only after the Secretariat had contacted the observer organization and received confirmation that it was no longer interested in maintaining its observer status. The Chairperson recalled that in the October 2015 meeting, he had requested that the Secretariat verify whether any ad hoc observer organizations had not attended a single Committee meeting in 2015. He had also requested that the Secretariat contact any such organizations and seek information regarding their continuing interest to participate in the SPS Committee.

13.11. The Secretariat informed the Committee that it had contacted the four ad hoc observer organizations that did not attend any meetings of the SPS Committee during 2015, to request confirmation of their continuing interest to participate as an ad hoc observer in the meetings of the SPS Committee. These four Observers had confirmed their interest in maintaining their ad hoc observer status in the Committee. The Secretariat suggested that the current list of organizations benefitting from ad hoc observer status in the Committee remain unchanged.

13.12. The Chairperson noted that there was still no consensus on the six outstanding requests for observer status from the Convention on Biological Diversity (CBD); CABI International; the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); the Organisation Internationale de la Vigne et du Vin (OIV); the Asian and Pacific Coconut Community (APCC); and the International Cocoa Organization (ICCO).

13.13. The Chairperson informed the observer organizations that their contributions to the work of the SPS Committee and their assistance to Members were highly appreciated, and that the Committee looked forward to their continued participation in all unrestricted meetings during 2016. The Chairperson encouraged observers to provide written reports on their relevant activities, in advance of the July 2016 meeting.

## **14 ELECTION OF THE CHAIRPERSON**

14.1. The Chairperson informed the Committee that the Chairperson of the Council for Trade in Goods had not yet concluded consultations on chairpersons for the subsidiary bodies of the Council for Trade in Goods, in accordance with the established Guidelines for Appointment of Officers to WTO bodies (contained in document WT/L/31). The Committee agreed with the Chairperson's proposal to postpone the election of the Chairperson of the Committee until the start of the next Committee meeting in July 2016.

## **15 OTHER BUSINESS**

15.1. Brazil noted that the agenda of the Committee had been evolving and proposed to hold discussions on how to improve its structure, in order to have more dynamic discussions. As an example, Brazil indicated that the information on technical assistance, harmonization, etc. provided by Codex, IPPC and OIE, could be combined into a single agenda item. Brazil requested the Chairperson and the Secretariat to reflect on this issue, and further indicated its willingness to hold bilateral discussions with other Members.



15.2. The United States thanked Brazil for its initiative to review the structure of the agenda, and encouraged greater discipline among Members in determining the placement of issues under specific agenda items. The United States noted that greater clarity was needed on the expectations for each of the agenda items and also guidance on what themes fit under each agenda item, highlighting that this would contribute to greater dynamism and effectiveness in Members' discussions. The United States indicated its support to collectively develop an improved structure, while not losing any of the current agenda items.

15.3. Argentina and Chile thanked Brazil for bringing this issue to the attention of Members. Argentina considered that further clarity of the agenda items would be useful and welcomed greater dynamism in the agenda. Chile further enquired if there were any existing rules or procedures regarding changing the structure of the agenda. The Secretariat clarified that at the end of each meeting, the Committee considered a tentative agenda for the next meeting, which could be amended by consensus before adoption. In addition, at the beginning of the subsequent Committee meeting, Members were given another opportunity to make amendments, before the final version of the agenda was adopted.

15.4. Chile further queried whether the Committee was proposing to have informal meetings to share ideas on the changes that could be made to the tentative agenda that been circulated during the meeting. The Chairperson clarified that a specific proposal was not currently on the table, only an invitation for a brainstorming. He further indicated that he might organize some intersessional consultations to discuss the issue, but that any decision would not be implemented for the next meeting. Focus would be placed on revisiting the current structure of the agenda, in a spirit similar to what was done with the inclusion of the agenda item on cross cutting issues, and not to remove agenda items.

15.5. Chile further observed there were overlaps in information provided during Committee meetings, where a Member provided general information on an issue and then also responded to a specific trade concern on the issue. Chile underscored that Members would need to see how best to address this type of situation. The United States noted that if an item was raised under specific trade concerns, the expectation was that the Member maintaining the measure would respond. If the issue was placed elsewhere on the agenda, then the response would be optional. The Chairperson reiterated that there would be future brainstorming on this issue.

## **16 DATE AND AGENDA FOR NEXT MEETINGS**

16.1. The next regular meeting of the Committee was tentatively scheduled for 6 and 7 July 2016.<sup>3</sup>

16.2. India proposed to add under Agenda Item 5: Cross-cutting issues, an item on "Need for measures on detection of pesticide residues not registered in the country of import for unimpeded flow of trade". India also informed the Committee that it would be submitting a document on the Review of the Operation and Implementation of the SPS Agreement, taking into account Article 12.7 of the SPS Agreement, the Fourth Ministerial Decision and documents G/SPS/W/270 and G/SPS/W/270/Add.1. The Chairperson requested India to submit its proposed agenda item in writing to the Secretariat, with an indication of where the item should be placed on the agenda. India further indicated that it would submit this agenda item to the Secretariat and noted that the item was to be placed under Agenda Item 5: Cross-cutting issues.

16.3. The Committee agreed to the following tentative agenda for its upcoming regular 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

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<sup>3</sup> The meeting dates have since been modified. Please note that the Committee is now tentatively scheduled to meet on 30 June - 1 July 2016.

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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.16
  5. Operation of transparency provisions
  6. Cross-cutting issues
  7. Implementation of special and differential treatment
  8. Equivalence – Article 4
    - a. Information from Members on their experiences
    - b. Information from relevant Observer organizations
  9. 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
    - d. Annual report in accordance with G/SPS/48
  10. Technical assistance and cooperation
    - a. Information from the Secretariat
      - i. WTO SPS Activities
      - ii. STDF
    - b. Information from Members
    - c. Information from Observer organizations
  11. Review of the Operation and Implementation of the SPS Agreement
    - a. Fourth review
  12. Monitoring the use of international standards
    - a. New issues
    - b. Issues previously raised
    - c. Annual report in accordance with G/SPS/11/Rev.1
  13. Concerns with private and commercial standards
    - a. Report on informal meeting
  14. Observers
    - a. Information from Observer organizations
    - b. Requests for observer status
      - i. New requests
      - ii. Outstanding requests
  15. Other business
  16. Date and agenda of next meeting
- 16.4. Members were asked to take note of the following deadlines:<sup>4</sup>
- For submitting comments on the draft programme for the Workshop on Pesticide Residues: **Friday, 13 May 2016**;
  - For submitting new proposals for the second bullet of paragraph 14.20 of G/SPS/W/280/Rev.2 (proposals from Brazil and Norway): **End of May 2016**;
  - For identifying new issues for consideration under the monitoring procedure and for requesting that items be put on the agenda: **Thursday, 23 June 2016**<sup>4</sup>;
  - For the distribution of the Airgram: **Friday, 24 June 2016**.<sup>4</sup>

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<sup>4</sup> Please note that, since the Committee meeting has been moved to 30 June – 1 July, the deadlines now are as follows:

- For identifying new issues for consideration under the monitoring procedure and for requesting that items be put on the agenda: Thursday, 16 June 2016;
- For the distribution of the Airgram: Friday, 17 June 2016.