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Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 1-2 MARCH 2018

NOTE BY THE SECRETARIAT[1]

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

1 ADOPTION OF THE AGENDA

1.1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its 71st regular meeting on 1-2 March 2018. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/SPS/20).

1.2. The Secretariat reminded the Committee that at the November 2017 Committee meeting it had requested that the convening airgram be circulated one week earlier than the previous practice. This had been done for the first time with document WTO/AIR/SPS/20. The Secretariat thanked Members for the early submission of their agenda items and documents, which had facilitated the preparation and circulation of the airgram by the new deadline.

2 INFORMATION SHARING

2.1 Information from Members on relevant activities

2.1.1 Japan - Update on the situation surrounding Japanese food after the Fukushima Daiichi nuclear power plant accident

2.1. Japan provided an update on the most recent data from its food monitoring programme. The data showed that the rate of products exceeding the Japanese standard limits had decreased and all the test results, with the exception of edible fungi, wild plants and game meats, were below the Codex guideline level. Japan thanked Argentina, the European Union, Iceland, Liechtenstein, Norway, Saudi Arabia, Switzerland, Turkey and the United States for relaxing their import restrictions. Japan reported that 51 out of the 54 Members who had introduced import restrictions on Japanese foods had either lifted or eased these restrictions. Japan also drew Members' attention to the circulation of the Panel report on *DS 495: Korea – Radionuclides (Japan)* on 22 February 2018, highlighting that the Panel had found that certain types of import restrictions on Japanese food were inconsistent with the core obligations of the SPS Agreement. Therefore, Japan urged Members with import restrictions on Japanese food to lift or relax these restrictions. Japan signalled its openness for further visits from Members to better assess the current food safety situation, and also to engage in discussions with counterpart authorities. Japan also recalled that the FAO and IAEA had acknowledged and evaluated the efforts made by Japan to ensure food safety.

2.2. Korea stated that discussions of the Panel report of *DS 495* in the SPS Committee were inappropriate, due to the ongoing dispute settlement procedures. Korea further indicated that it was not in agreement with many of the Panel findings and opined that discussions relating to the dispute should be held within the Dispute Settlement Body. Korea reaffirmed that its SPS measures taken in response to the Fukushima Daiichi nuclear power plant accident were applied to protect public health and safety, and were both legitimate and WTO consistent. Korea indicated its intention to appeal the Panel report after further review.

2.3. The European Union expressed its appreciation for the information that Japan continued to provide to the Committee. The European Union noted that it had worked closely with the Japanese authorities and had regularly reviewed the additional guarantees required. As a result, the European Union was only still requesting a few additional guarantees for a limited number of products from a limited number of prefectures. The European Union expressed its overall satisfaction with the measures adopted by the Japanese authorities and recognized their efforts in handling the issue, both in terms of the transparent approach and effectiveness of the measures adopted.

2.1.2 Canada - Training for JMPR evaluators

2.4. Canada provided information on a training session held in partnership with FAO and the United States, with the aim of increasing the pool of scientific experts available to conduct pesticide residue evaluations for JMPR. The training had taken place in Canada from 27 November to 1 December 2017 and had led to the identification of six new JMPR evaluators from Brazil, China, Greece, Japan, Thailand and the United Kingdom, as well as four alternates from Brazil, Finland, Japan and Thailand. Canada expressed its satisfaction with the success of the event, which had increased the availability of knowledgeable experts who would contribute to the JMPR

panel and to the development of international standards on pesticides. Canada also informed the Committee that it was working with FAO to organize an extraordinary session of the Joint FAO/WHO Meeting on Pesticide Residues scheduled for May 2019. This meeting would focus on addressing the growing backlog of new use evaluations and facilitating the timely establishment of international standards.

2.2 Information from CODEX, IPPC and OIE on relevant activities

2.2.1 Codex

2.5. Codex provided an outline of its activities, as detailed in G/SPS/GEN/1605. Codex highlighted the various Codex sessions that had been held since the last SPS Committee meeting and announced the upcoming Codex meetings for 2018. Several workshops were also being held in various regions on Codex web tools. The aim of these workshops was to enhance Members' participation in Codex work through the use of electronic tools, such as the Codex Online Commenting System and the web platform for electronic working groups.

2.6. Kenya acknowledged the work of Codex and indicated that as the current coordinator for CCAfrica, it wished to express appreciation for the support provided to the region. Kenya noted that it had hosted the first training workshop on web tools for Members in the region and that Members were appreciative of this training, which had augmented their work within Codex.

2.2.2 IPPC

2.7. The IPPC provided an outline of its activities organized around six main areas of work, as detailed in G/SPS/GEN/1601. In particular, the IPPC highlighted the establishment of a new IPPC CPM subsidiary body, the Implementation and Capacity Development Committee (IC), which had held its first meeting in December 2017. This body, under the guidance of the CPM, would facilitate the implementation of the Convention and ISPMs, as well as strengthen the phytosanitary capacities of contracting parties. The IPPC also reported on the activities of the focus group on developing joint criteria for the call for topics for standards and implementation, indicating that the proposed process and criteria for the identification of topics would be presented to CPM-13 for further discussions. The IPPC further highlighted its development of guides on pest-free areas and pest risk communication, as well as its e-learning course. Finally, the IPPC urged Members to support Finland's proposal to declare 2020 as the International Year of Plant Health at the UN General Assembly in September 2018.

2.8. South Africa welcomed the establishment of the new IPPC CPM subsidiary body, observing that dispute settlement remained a core activity under Article 13 of the IPPC, and that the scope of this new body included oversight of dispute settlement processes. South Africa recalled that in the July 2016 SPS Committee meeting, the topic of raising awareness of the IPPC and OIE dispute settlement mechanisms had been discussed under the agenda item on cross-cutting issues. At that meeting, South Africa had indicated its engagement in the IPPC dispute settlement mechanism and had expressed regret that the mechanism was not as facilitative as initially expected, while calling on IPPC to improve this mechanism. South Africa further noted the lack of inclusion of a status report by the IPPC secretariat on the disputes currently under review, and that dispute settlement did not appear to be reflected in the key tasks and activities of the IPPC work programme. South Africa observed that this might indicate that dispute settlement was not a priority for the IPPC, which would be of great concern.

2.9. The European Union expressed its appreciation to the IPPC for its report, reiterating its support for Finland's proposal to declare the year 2020 as the International Year of Plant Health and urging Members to support the proposal. The European Union suggested that there could be a possible role for the WTO and that more information could be provided at the next Committee meeting.

2.10. In response to the concerns expressed by South Africa, the IPPC confirmed that the IC would also work on dispute settlement and avoidance. In this regard, the Committee had created a sub-group to develop and review processes in this area. The IPPC also highlighted that the IC would focus more on dispute avoidance, rather than dispute settlement.

2.2.3 OIE

2.11. The OIE outlined its report, as detailed in G/SPS/GEN/1600. The OIE reported on the developments in OIE standards for terrestrial and aquatic animals, and in particular highlighted the revised chapter of the Terrestrial Code on zoning and compartmentalization, and the revised questionnaires on the procedures for self-declaration and for official recognition of disease status by the OIE. The OIE also provided information on its Observatory Project, noting that there had been a 78% response rate to the questionnaire sent to all OIE delegates on the implementation of OIE standards. The results of the analysis would be presented at the General Session and also shared with the SPS Committee, in order to facilitate the identification of the challenges faced by Members in the implementation of OIE standards and the areas where capacity building should be improved.

2.12. The Chairperson indicated that information on the results of the questionnaire would be useful for the Committee and suggested that a briefing session could be organized at the next Committee meeting.

3 SPECIFIC TRADE CONCERNS

3.1. The Secretariat drew Members' attention to the recently released annual compilation of specific trade concerns (G/SPS/GEN/204/Rev.18). The report compiled all specific trade concerns raised in the SPS Committee during 2017. A total of 32 STCs had been discussed, of which 17 were new issues and 15 had been previously raised. In 2017, 30 STCs had been reported as resolved, partially resolved, or substantive action had occurred in another WTO body. The Secretariat reported that a total of 434 STCs had been raised between 1999 and the end of 2017.

3.1 New issues

3.1.1 Viet Nam's draft amendment to Circular 24 on MRLs for veterinary drugs - Concerns of the United States

3.2. The United States raised a concern regarding Viet Nam's draft amendment to Circular 24 (G/SPS/N/VNM/82) which, as currently drafted, would rescind MRLs for several veterinary drugs that were currently aligned with Codex MRLs. The United States observed that Viet Nam had not provided scientific justification for rescinding the Codex aligned MRLs. The United States indicated that it had welcomed the announcement by Viet Nam's Prime Minister, during his May 2017 visit to the United States, that Viet Nam would continue to follow Codex standards for the veterinary drug MRLs in question. However, there still remained uncertainty regarding the status of the proposed ban on certain veterinary drugs, since there was no official document indicating that the draft ban would not go into effect. The United States, while acknowledging appreciation for the extensive bilateral engagement with Viet Nam on the issue, indicated disappointment that the issue remained unresolved. The United States further urged Viet Nam to maintain MRLs for veterinary drugs in accordance with Codex standards and requested that Viet Nam notify an addendum to the WTO withdrawing G/SPS/N/VNM/82, in order to provide certainty for US exporters.

3.3. Canada shared the concerns of the United States regarding Viet Nam's draft amendment to Circular 24, which proposed zero tolerances for a number of veterinary drugs, including ractopamine, which already had a Codex MRL. Canada stated that Viet Nam's proposed zero tolerance approach would effectively ban imports of meat products containing any residue of these veterinary drugs, even if within the Codex established MRLs. Canada noted that it had submitted detailed comments on Viet Nam's notification (G/SPS/N/VNM/82), and requested the scientific justification for the zero tolerance approach. Despite several bilateral efforts to resolve the issue, Viet Nam had still not withdrawn its proposal nor made known its future intentions, which had resulted in uncertainty for Canadian meat exporters. Canada urged Viet Nam to withdraw its proposal, to inform the Committee of its withdrawal and to establish MRLs for ractopamine and other veterinary drugs, based on Codex MRLs.

3.4. New Zealand supported the concerns of the United States, in particular noting the lack of scientific justification for rescinding the Codex aligned MRLs.

3.5. Viet Nam welcomed Members' feedback and underscored its commitment to uphold transparency in the process. Viet Nam informed Members that its Ministry of Health was still in the process of reviewing the regulation and receiving comments from relevant authorities, with a view to finalize the draft regulation. Members would be notified once there was an update on the status of Circular 24. Viet Nam further stated that its regulation was based on the guidelines of international standard setting bodies and that there was no arbitrary or unjustifiable discrimination against Members or disguised restriction to international trade.

3.1.2 Mexico's market access requirement for casein products - Concerns of India

3.6. India raised a concern over Mexico's market access requirement for casein products, explaining that the OIE had recognized its official control programme for foot and mouth disease, in accordance with the provisions of the Terrestrial Code. In particular, India noted that the OIE Terrestrial Code recommended the importation of milk products from FMD-infected countries or zones where an official programme exists. India also explained that the processing of casein ensured the destruction of any undesired microbes. All the technical information required by Mexico had also been submitted by India's authorities. India highlighted the importance of casein as an export commodity and requested Mexico to allow its casein exports which had been certified by the competent authorities. India thanked Mexico for its bilateral engagements and looked forward to the resolution of this issue.

3.7. Mexico informed the Committee that efforts were being made through bilateral discussions to resolve the issue. Mexico affirmed its commitment to recognize and systematically implement all fundamental principles of the SPS Agreement, and expressed its willingness to continue efforts to reach a solution.

3.1.3 Saudi Arabia's temporary ban on the importation of fish, crustaceans and other aquatic animal products - Concerns of Viet Nam

3.8. Viet Nam raised a concern over Saudi Arabia's temporary ban on the importation of fish, crustaceans and other aquatic animal products, which had been notified as an emergency measure in document G/SPS/N/SAU/336 on 30 January 2018. Viet Nam noted that the Saudi Food and Drug Authority (SFDA) had imposed the ban on the basis of the Quarterly Aquatic Animal Disease Report (Asia-Pacific Region, April – June 2017) and on an inspection visit in December 2017, in relation to white spot disease (WSD) and acute hepatopancreatic necrosis disease (AHPND). Viet Nam stated that the inspection visit had been limited to a few establishments, and not to the entire fishery safety control system, which it viewed as inconsistent with Codex standards. In addition, the inspection report had not been sent to Viet Nam for consultation ahead of the imposition of the ban, which Viet Nam argued was not in line with international practices. Viet Nam further highlighted some inconsistencies in the information provided in Saudi Arabia's notification, and emphasized that the ban was more trade restrictive than necessary, and was inconsistent with several provisions of the SPS Agreement. Viet Nam observed that WSD also occurred in Saudi Arabia. It had further requested information on Saudi Arabia's WSD-free status for shrimp; however, no response had been received as yet. Viet Nam stated that there was no risk posed by highly processed or cooked shrimp products and that these products were considered safe in commerce by the OIE. Viet Nam further indicated that both diseases had been well controlled in Viet Nam for several years, and therefore urged Saudi Arabia to lift its temporary ban. Finally, Viet Nam expressed its willingness to resolve the issue in a cooperative manner.

3.9. Saudi Arabia stated that the temporary ban on the importation of fish, crustaceans and other aquatic animal products from Viet Nam had been imposed as a precautionary measure. Saudi Arabia highlighted that it had taken this measure on the basis of Section 4.15 of the Guidelines for Food Import Control Systems (GSO/CAC/GL 47:2007), as well as the mission report and recommendations from the technical team which had visited Viet Nam. Saudi Arabia further outlined several discrepancies which had been found during the technical visit to Viet Nam. Finally, Saudi Arabia indicated its willingness to engage in bilateral discussions to resolve the issue.

3.1.4 Viet Nam's market access requirements for ''white'' offals - Concerns of the United States

3.10. The United States raised concerns regarding Viet Nam's market access requirement for ''white'' offals. The United States noted that Viet Nam had signed a letter of Agreement with the United States in 2006, as part of its WTO accession, accepting the export certificate issued by the USDA FSIS as proof that its exported meat and poultry products had been inspected and passed by FSIS. However, since the implementation of Circular 25 in 2011, US exporters now faced a burdensome administrative process due to the requirement for meat, poultry and fishery establishments to submit a questionnaire for subsequent approval by Viet Nam's National Agro-Forestry-Fisheries Quality Assurance Department (NAFIQAD), in order to be eligible to export to Viet Nam. The United States indicated that its understanding of the Circular 25 approach was that Viet Nam would accept and review questionnaires on an ongoing basis and that as FSIS inspected and passed new establishments, Viet Nam would add these facilities to its list of entities eligible to export to Viet Nam. Instead, the United States noted that Viet Nam had appeared to institute a process of registration of individual facilities, rather than focusing on the overall effectiveness of the FSIS inspection and certification system. Such an approach was contrary to Codex guidelines, which stated that the importing country should evaluate the effectiveness of the inspection and certification system of the exporting country, rather than engage in an establishment by establishment approach. The United States observed that the regulation had created uncertainty for market access, and had stalled the addition of new establishments and the flow of exports to Viet Nam. In addition, there had been changes in the administrative responsibility for the implementation of Circular 25, which had resulted in extensive delays in the reopening of Viet Nam's market. The United States acknowledged the bilateral engagements with Viet Nam and urged Viet Nam to resolve the issue expeditiously.

3.11. New Zealand shared the concern raised by the United States, in particular as it related to the consistency of the regulation with Codex guidelines on evaluating the effectiveness of the inspection and certification system of the exporting country. New Zealand also noted that its exporters faced similar issues to those reported by the United States.

3.12. Viet Nam explained that during the visit of its inspection team to the United States in 2014, several instances of non-compliance had been identified in some US establishments. Viet Nam indicated that it had informed the United States of these issues and had also temporarily halted the addition of new registrations, until the corrective and preventive methods had been taken at these establishments. Viet Nam stated that several requests had been made for USDA and FSIS representatives to facilitate a visit of the Vietnamese delegation to a number of establishments that had been registered for exporting ''white'' offals to Viet Nam. The purpose of the mission would be to inspect and review US regulatory programmes and food safety systems, in order to ensure that all establishments met the requirements. Viet Nam indicated its willingness to continue working closely with US authorities on the issue, and further underscored its commitment to ensure that its SPS regulations were consistent with international standards and the SPS Agreement.

3.1.5 US import restrictions on apples and pears - Concerns of the European Union

3.13. The European Union raised a concern regarding the US import restrictions on apples and pears, explaining that for many years it had market access to the United States through a pre-clearance inspection system. However, very limited EU exports had taken place due to the costly nature of the pre-clearance system. As an alternative, the European Union had applied in 2008 to export apples and pears to the United States under a systems approach. Despite finalizing the scientific and technical work in 2014, there had been lengthy delays in the US approval procedure. The European Union indicated that the last administrative step, which was to publish the final rule, had been put on hold by the United States, resulting in blocked trade of apples and pears from the European Union. The European Union noted that this was inconsistent with the SPS Agreement, particularly in relation to avoiding undue delays in approval procedures. The European Union urged the United States to respect its SPS obligations and to allow the immediate start of trade of apples and pears under a systems approach.

3.14. The United States indicated that there had been considerable progress on the several requests from the European Union to establish and expand access for its apple and pear exports to the US market. In 2010, seven EU member States (Belgium, France, Germany, Italy, Netherlands,

Portugal and Spain) had requested access to the US market using a systems approach and an additional request had been submitted by Poland in 2014. The United States explained that the USDA Animal and Plant Health Inspection Service (APHIS) had published a proposed rule in 2016 to authorize imports of apples and pears from eight EU member States under a systems approach that minimized pest risk. Comments received from the public on the proposed rule were currently being evaluated, following which the final rule would be published. The United States indicated that it had been responsive to the EU requests, as it had conducted site visit audits of apple and pear production sites in four of the eight EU member States, in addition to finalizing the work plan. The United States further explained that both of these activities were normally conducted only after the publication of the final rule. The United States noted that it would continue to provide regular updates to the European Union and its member States on the status of the rulemaking process.

3.2 Issues previously raised

3.2.1 EU maximum level of cadmium in foodstuffs - Concerns of Peru (No. 430)

3.15. Peru reiterated its concern over the maximum levels of cadmium in chocolates and other cocoa products proposed by the European Union Commission Regulation (EU) No. 488/2014. Peru highlighted the social and economic importance of cocoa and chocolate exports to its economy, underscoring the potential negative impact of the regulation on its exports. Peru further observed that the regulation did not establish maximum levels for cadmium in cocoa beans, only in chocolate. Peru recalled the findings of the European Food Safety Authority (EFSA), which indicated that it was unlikely that there would be adverse effects in an individual exposed to dietary cadmium in the European Union. Peru also noted that JECFA considered foods to be a risk when it contributed 5% or more of the maximum tolerable daily intake of the contaminant. Based on the JECFA parameter, Peru argued there was no justification for including chocolate in the regulation, as it only contributed 4.3% to dietary cadmium exposure, and further concluded that the EU regulation was not in line with the SPS Agreement. Peru drew Members' attention to the ongoing development of a Codex standard for cadmium maximum levels and highlighted that this standard could serve as a reference point for trade. Finally, Peru urged the European Union to exclude chocolate and cocoa products from the scope of its regulation.

3.16. Brazil, Colombia, Costa Rica, the Dominican Republic, Guatemala, and Panama shared Peru's concern, and requested that the European Union exclude chocolate and cocoa products from its regulation pending the development of Codex standards on maximum levels of cadmium.

3.17. The European Union recalled its intervention in the November 2017 Committee meeting, highlighting that the measure was based on EFSA recommendations that exposure to cadmium should be reduced, and that in light of available science, excluding chocolate and cocoa products from this measure would not achieve the desired level of protection. The EFSA assessment had taken into consideration EU consumption patterns. In addition, the European Union was of the view that the exposure assessment undertaken by JECFA gave no basis for amending the EU maximum levels for cadmium. The European Union reminded Members of its efforts to alleviate the difficulties of trading partners in complying with this measure, such as agreeing to a transitional period of five years, which had deferred the application date to January 2019, and setting maximum limits for blended products instead of cocoa beans to facilitate trade. The European Union further noted its active participation in Codex discussions on establishing an international standard for cadmium maximum levels.

3.2.2 China's proposed amendments to the implementation regulations on safety assessment of agricultural GMOs – Concerns of the United States (No. 395)

3.18. The United States reiterated its concern regarding China's proposed amendment to the implementation regulations on safety assessment of agricultural GMOs. The United States expressed its disappointment with the lengthy delays in product approvals by China, noting that there were currently ten products poised for final adoption, some of which had been under review since 2011. The United States highlighted the obligation under the SPS Agreement for Members to provide timely information to applicants on the processing periods, the completeness of documentation, and also to explain any delays in the process. The United States further requested

China to provide such information to applicants, and to approve these products without further delay.

3.19. China emphasized the importance it placed on managing the safety of agricultural GMOs, highlighting that they were conducted on the basis of scientific assessment principles, consistent with international practice. In addition, its procedures were transparent and standardized, and no delays had been experienced in the examination and approval process. China also reminded the Committee that the measure had been notified in 2015, following which submitted comments, including those of the United States, had been reviewed and taken into consideration in the amended administrative measure issued in 2016. China provided an overview of its revised administrative measure, highlighting that the measure had not reduced the frequency of decisions taken; instead statistics had shown that imports of agriculture GMOs had rapidly increased, indicating the smooth trade of GMOs.

3.2.3 The Russian Federation's import restrictions on certain animal products from Germany – Concerns of the European Union (No. 411)

3.20. The European Union reiterated its concerns regarding the Russian Federation's import ban on fresh and chilled pig meat, beef and poultry meat from the entire territory of Germany imposed in early 2013, and the subsequent ban on finished meat and milk products from three German Federal States. The European Union welcomed the recent developments, whereby the Russian Federation had lifted restrictions on three dairy plants. However, the European expressed its disappointment that the overall ban still remained in force, despite all efforts made by Germany and the European Union. The European Union repeated its previous statements on the inconsistency of the measure with the SPS Agreement, and also indicated that it viewed the request by the Russian Federation for a fourth round of inspections as unreasonable. The European Union further noted that the inspection of individual establishments was neither efficient nor proportionate. Instead, a systems audit approach was more appropriate, in line with Codex guidelines. The European Union urged the Russian Federation to repeal its measures without further delay.

3.21. The Russian Federation noted that there had been tangible progress since the last Committee meeting. In particular, restrictions on three dairy establishments had been lifted in January 2018, following the submission of information by Germany. The Russian Federation had also requested German authorities to provide information on state-run laboratory monitoring for three other establishments, and on laboratory control for another establishment. These requests were still pending.

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

3.22. The European Union reiterated its concerns regarding the Russian Federation's import restrictions on all fishery products from Estonia, which followed an audit of a few establishments by the Russian Federation in 2015. The European Union argued that these measures were inconsistent with the SPS Agreement, unjustifiable on sanitary grounds, and not in compliance with the Russian Federation's WTO accession commitments. The European Union indicated that Estonia had been audited by the Russian Federation in June 2016, however, the findings of this audit had only been provided in October 2017. In addition, Estonia had held several bilateral discussions with the Russian Federation, without further success. The European Union welcomed the re-authorization of one fishery products establishment in December 2017, but expressed its regret that the same approach had not been applied to other concerned establishments. The European Union urged the Russian Federation to immediately repeal the measure.

3.23. The Russian Federation indicated that considerable progress had been made since the last Committee meeting, highlighting that further to inspections in 2016, restrictions had been lifted on one Estonian establishment in December 2017. The Russian Federation further noted that it would consider lifting more restrictions, upon submission of information on how the remaining deficiencies identified during the inspection visit were being addressed. The Russian Federation also recalled that Estonia had agreed to another inspection visit in July 2018, which it hoped would produce positive results.

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

3.24. Argentina reiterated its concern over the European Union's process to define criteria to identify endocrine disrupting properties. Argentina thanked the European Union for the update provided in December 2017 through document G/SPS/GEN/1594, and further requested the European Union to notify the substantive changes which had been made to the proposal. Argentina remained concerned that the EU policy continued to be based on a hazard identification approach instead of a complete scientific risk assessment, which was counter to the principles of the SPS Agreement. Argentina emphasized the systemic impact that this policy would have on agricultural exports to the EU market, specifically highlighting that 39% of Argentine exports to the European Union could be affected by this policy. Argentina further observed that phytosanitary products currently authorized, after having gone through an EFSA risk assessment, could later be regulated on the basis of hazard identification, which could lead to MRLs being established at limits of detection, without corresponding scientific basis - and even in contradiction of Codex standards. Argentina reiterated its request that the European Union maintain import tolerances with MRLs above default values, in accordance with its Regulation (EC) 396/2005.

3.25. China echoed Argentina's concern, also noting that the criteria appeared to be policy-oriented, rather than based on rigorous scientific risk assessment as required under the SPS Agreement. China urged the European Union to consider the existing scientific basis when assessing risks to life or health and to minimize the negative effects of trade. China also recommended that "negligible risk" be modified to "be acceptable to human and environmental risks", and that the European Union adopt Codex standards where they exist, in accordance with the harmonization principle of the SPS Agreement. China also signalled its interest in following the developments on this issue and further encouraged the European Union to update the SPS Committee.

3.26. India supported the concerns raised, and requested the European Union to adopt a risk assessment approach for regulating pesticides and establishing import tolerances, without creating unnecessary barriers to trade.

3.27. The United States reiterated its concerns on the EU pesticides policy. The United States argued that the hazard-based pesticide regulations were insufficiently grounded on science and risk, and would harm agricultural trade, without making a meaningful contribution to public health or environmental protection. The United States requested clarification on the appropriate level of protection being sought by the European Union through implementation of Regulation 1107/2009. In addition, the United States noted that adoption of the revised criteria, currently under review by the European Parliament, would lead to a ban on many more substances than those previously suggested in the European Union's 2016 notification. The United States further queried how the European Union would ensure consistency with the SPS Agreement if it withdrew MRLs without conducting risk assessments. The United States emphasized the existence of other approaches that could provide the high levels of public health and environmental protection being sought by the European Union, without forgoing the scientific risk assessment framework. The United States welcomed the European Union's efforts to update the Committee (G/SPS/GEN/1594), but registered its regret that the substantive concerns of over 30 Members had still not been addressed. Finally, the United States looked forward to receiving responses to the written questions that had been submitted after the March 2017 SPS Committee meeting, and also hoped that the comments submitted on related texts in other fora (i.e. EU's REFIT consultation on legislation, EFSA/ECHA guidance) would be taken into consideration.

3.28. Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Guatemala, Kenya, Korea, New Zealand, Nigeria, Panama, Peru, Chinese Taipei, Thailand and Uruguay indicated that they shared this concern and called upon the European Union to reconsider their measure considering the significant negative impact that it would have on trade. They also called upon the European Union to base its measures on adequate scientific risk assessments and to consider Codex MRLs. Brazil further noted that it had conducted its own impact assessment of pesticides using the criteria being discussed by the European Commission, but with different outcomes. In this regard, Brazil underscored the challenges arising from establishing criteria to define endocrine disruptors.

3.29. Canada further expressed its disappointment that a regulatory amendment for derogation based on negligible risk had not been introduced in the revised regulatory proposal which had been approved by the Standing Committee on Plants, Animals, Food and Feed in December 2017. Canada sought assurances from the European Union that decisions on setting MRLs would continue to be made on the basis of complete risk assessments, as set out in Regulation (EC) 396/2005. Canada looked forward to continued updates from the European Union on the next steps for the criteria, as well as information on the timelines for the entry into the force of the proposal. Canada also sought information on how the European Union planned to work with its trading partners to develop a revised measure in a manner which was consistent with its international obligations and which avoided unnecessary disruptions to market access.

3.30. The European Union reiterated its commitment to transparency, noting that it had communicated the latest state of play in document G/SPS/GEN/1594. The European Union recalled that in October 2017, the European Parliament had rejected the criteria for plant protection products which had been agreed by EU member States. A new version of the draft criteria for plant protection products had subsequently been developed and was currently under the scrutiny of the European Parliament. The European Union also reminded the Committee that the proposed regulation criteria for identifying endocrine disruptors in biocidal products had been adopted and subsequently published in November 2017 as regulation (EU) 2017/21003. The criteria would be applicable from 7 June 2018. A technical guidance document was also being developed by the European Chemicals Agency (ECHA) and EFSA for the implementation of the new scientific criteria for pesticides and biocides, with an expected completion date in June 2018. Several Members had submitted comments on this guidance document which were being taken into consideration. The European Union reminded the Committee that the proposal to amend the derogation, based on negligible risk of exposure, remained on hold until agreement on the criteria was adopted. Import tolerance requests for substances falling under the cut-off criteria would also be carefully evaluated on a case-by-case basis, considering the objectives of consumer protection, as well as the European Union's obligations under the SPS Agreement. Finally, the European Union undertook to keep Members duly informed about further developments.

3.2.6 France's dimethoate-related restrictions on imported cherries - Concerns of the United States (No. 422)

3.31. The United States reiterated its concern regarding actions taken by France to ban the importation of fresh cherries from the United States and other countries that had approved the use of the pesticide dimethoate on cherries. The United States expressed concern over the decision to restrict imports of commodities based on the authorization of a pesticide in the country of origin rather than based on a scientific assessment of risk, and regardless of whether or not residues of the pesticide were present in the imported commodities. The United States indicated that it had provided data, in response to France's notification (G/SPS/N/FRA/13), showing that dimethoate had not been used in the State of California for over five years. Furthermore, the United States argued that in regions where dimethoate might be used, it had been applied as a post-harvest application, which did not result in residues on the fruit. The United States noted that it had received from France a response to its submitted comments, but regretted that its substantive concerns had not been addressed. The United States indicated that it had demonstrated that pesticide authorization status was not a reliable indicator of actual exposure to residues and on this basis, requested France to clarify whether less trade restrictive measures had been considered. The United States also highlighted that it had satisfied the data-gaps for dimethoate metabolites and further urged France to follow the MRLs established by the European Commission, upon completion of the EU re-evaluation of dimethoate. Finally, the United States requested France not to renew its ban for a third consecutive year.

3.32. Canada echoed the US concern, requested information about any new measure that would apply later in 2018, and encouraged France to adopt measures in line with those of the European Commission. Canada noted that France had lifted its ban on cherries from countries where dimethoate use was authorized, but remained concerned that France might implement another temporary measure banning cherries from countries that had registered dimethoate use. Canada urged France to conduct a risk assessment to determine if the current MRL established by the European Union was insufficient, before implementing more trade restrictive measures.

3.33. Turkey supported the concerns raised, indicating that although dimethoate use had been prohibited in Turkey, it still had been unable to export cherries to France. Turkey urged France to

apply the least trade restrictive measures and indicated its willingness to continue bilateral discussions on the issue.

3.34. The European Union referred to its previous responses provided in the 2017 SPS Committee meetings and indicated that the measure, which had been introduced in April 2017, had expired at the end of 2017. In terms of the next steps, the European Union explained that EFSA would evaluate new studies, particularly in view of the open questions on metabolites, and that an EFSA conclusion was expected later in 2018. The European Union noted that it was too early to know whether new measures would be introduced by France in 2018. The European Union further indicated that any such measure would be notified to the Committee.

3.2.7 China's AQSIQ official certification requirements for food imports (G/TBT/N/CHN/1209) – Concerns of the United States (No. 184)

3.35. The United States reiterated its concern on China's proposed official certification requirements for imported food. The United States thanked China for its bilateral engagement and for its notification to the WTO of the two-year transitional period for the implementation of the official certification requirement. The United States welcomed the clarifications provided by China and requested confirmation that China was considering revision of the measure in the coming months. The United States further requested information on the associated timelines for such a revision and urged China to notify any revision to the SPS Committee. The United States highlighted the wide range of imported food products covered by the measure, including processed, shelf-stable food, which would pose little to no risk to food safety and human health. The United States also noted the potential administrative and financial burden to both exporting countries and China, due to the measure. The United States recalled the existing Codex guidelines and principles on official certification requirements and urged China to consider aligning its measure to these international guidelines. Finally, the United States welcomed the opportunity to work further with China on the matter.

3.36. The European Union, Guatemala, Japan, Korea, Singapore and Thailand also shared the concern of the United States and urged China to provide information on the revised draft and its implementation, noting that the measure would be disproportionate, go beyond international standards, and be trade disrupting. Guatemala further looked forward to receiving a response to its questions submitted in August 2017.

3.37. China recalled its response in previous SPS Committee meetings, highlighting that it had carefully considered the comments submitted by Members and had decided to postpone enforcement of the measure to 1 October 2019, as notified to the WTO. China explained that the measure had been drafted taking into account the practical situation of other Members, and further indicated that it would take into consideration all reasonable comments from Members, with a view to adjust the measure and minimize negative trade effects. Finally, China invited Members to coordinate with Chinese authorities to continue discussions on the technical details.

3.2.8 EU MRLs for acrinathrin, metalaxyl and thiabendazole - Concerns of Peru (No. 428)

3.38. Peru reiterated its concern regarding the lowering of EU MRLs for acrinathrin, metalaxyl and thiabendazole under Regulation (EU) 2017/1164, which had entered into force on 21 January 2018. Peru emphasized the negative impact of this measure on its fruit and vegetable exports to the European Union. In particular, Peru highlighted its concerns with EFSA's categorization of mango, which had led to more restrictive EU MRLs being applied than the Codex standard of 5mg/kg. Peru requested that the European Union review this measure which it viewed as more trade restrictive than necessary, without scientific basis and inconsistent with Articles 2 and 5 of the SPS Agreement.

3.39. Brazil, Colombia, Costa Rica, the Dominican Republic, Guatemala and the United States shared the concern raised by Peru, underlining the importance of basing measures on scientific evidence and using Codex standards. The United States expressed its disappointment with the European Union's decision to lower the thiabendazole MRL on sweet potatoes to 0.01mg/kg, even though no risk to consumers had been identified and confirmatory residue trial data were under development for submission. The United States requested clarification on the European Union's

process, including the time-frame, for considering comments submitted by Members. In particular, the United States highlighted the short timing between its submission of comments, in response to the EU notification, and the subsequent vote by EU member States on thiabendazole MRLs, a few days later. The United States further noted that sweet potato growers would face great difficulties in exporting to the European Union and in controlling black rot during the time that it would take the European Union to re-establish an import tolerance. The United States indicated that it planned to submit an import tolerance application and hoped that the EU would consider an expedited review.

3.40. The European Union recalled its previous intervention in the November 2017 SPS Committee, explaining that the proposed MRLs were based on EFSA's identification of dietary intake concerns and data gaps in their assessment of MRLs for thiabendazole in mangoes. The European Union reported that comments received from Members in response to notification G/SPS/N/EU/174 had not presented specific new data for re-evaluation and invited Members to apply for import tolerances for affected products accompanied by substantial new data addressing EFSA's concerns. The European Union also indicated that the Standing Committee had discussed the concerns of trading partners, including whether processing factors could be applied for mangoes; however, it concluded that there was insufficient data or justification for further action. The European Union noted that there were other available plant protection products which could replace thiabendazole, and that a list of these possible alternatives had been transmitted to some interested trading partners. This list could also be made available to other Members. Finally, the European Union reminded Members that it had provided an information note in 2016 on the ongoing review of EU MRLs, which had been updated in June 2017 (G/SPS/GEN/1494/Rev.1), and urged Members to make their concerns known as early as possible in the process.

3.2.9 Thailand's import restriction on papaya seeds – Concerns of Chinese Taipei (No. 421)

3.41. Chinese Taipei reiterated its concern regarding Thailand's import restriction on papaya seeds imposed since 2008. Chinese Taipei reported that it had reviewed Thailand's draft quarantine requirements for its papaya seeds and had submitted comments in January 2018, where it had indicated that the different modes of transportation had no effect on the pest risk of its papaya seeds. Chinese Taipei noted that it had proven that its measures could effectively control any risks relating to tobacco ringspot virus (TRSV) and further indicated that its exports of papaya seeds had never been intercepted or invaded by any pests. Chinese Taipei urged Thailand to lift the import restriction and comply with its WTO obligations.

3.42. Thailand responded that it had held several bilateral meetings with Chinese Taipei and that a draft import protocol, based on the available scientific information, had been submitted to Chinese Taipei in the last bilateral meeting. However, an agreement on the import protocol had not yet been reached. Thailand expressed its willingness to continue working with Chinese Taipei for the mutual resolution of this concern.

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

3.43. The European Union reiterated the importance of this concern, recalling BSE-related science on the safe trade of beef regardless of the BSE country risk status, as stated by the OIE. The European Union regretted that some countries maintained their BSE-related bans, which contradicted their obligations under the SPS Agreement. The European Union also underlined the lack of transparency of some Members' import procedures, as well as undue delays in approval procedures of some Members. The European Union appreciated the positive developments in China, Japan, Korea, Chinese Taipei and the United States, and further urged all Members to promptly allow imports of safe beef from the European Union.

3.2.11 Mexico's restrictions on imports of swine meat - Concerns of Brazil (No. 271)

3.44. Brazil informed the Committee of the withdrawal of its specific trade concern against Mexico following recent bilateral discussions, and further indicated that a timeframe had been agreed to resolve this concern.

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

3.45. The European Union again raised concerns over China's country-wide ban on pork products from Poland and other EU member States due to African swine fever (ASF). The European Union recalled that the issue had first been raised in July 2015, without a positive response from China to date. The European Union emphasized its regionalization measures and the evidence presented to guarantee safe trade, urging China to recognize the concept of disease-free areas and respect its regionalization obligations in compliance with the SPS Agreement and OIE standards. The European Union also requested that China provide information on its procedure to recognize disease-free areas and on its standard processing period, and that China ensure that these procedures were undertaken and completed without undue delay. The European Union indicated its willingness to continue working intensively and constructively with China towards finding a common solution, in line with international standards and obligations.

3.46. China highlighted the serious nature of ASF, noting that there was no effective vaccine to date, and that this disease had shown a continuous spread in Europe, in recent years. China confirmed that there had been no occurrence of ASF in China, and further indicated that according to the SPS Agreement and China's current protection ability, China had to strictly prohibit imports of animals and animal products with a high risk.

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

3.47. The European Union reiterated its concern over Korea's ban on pork and pork products from Poland since February 2014, which did not take into account the European Union's regionalization measures. The European Union indicated that, since the ban, Korea had continued to receive detailed information on all outbreaks. Korea had performed a preliminary risk assessment and an on-site inspection in December 2014, following which it had informed the European Union, in October 2015, that a risk analysis had been initiated. However, there had been no progress to date. The European Union urged Korea to finalize the risk assessment, adopt trade measures which were consistent with the SPS Agreement, and only request the necessary information to complete the assessment. The European Union expressed its willingness to continue working with Korea and looked forward to a quick resolution of this concern.

3.48. Korea drew attention to the increasing number of ASF cases in Poland, particularly in small domestic pig farms, and further recalled that the report of the European Animal Health Regulatory Committee had indicated possible causes for the outbreak. Korea expressed its concern that the proposed ASF-free zone was not effectively managed, and further indicated that it had requested pertinent information on the spread of ASF in domestic pig farms. However, no response had yet been received from Poland.

3.2.14 China's import restrictions due to Highly Pathogenic Avian Influenza – Concerns of the United States (No. 406)

3.49. The United States reiterated its concern over China's Highly Pathogenic Avian Influenza (HPAI)-related restrictions on poultry products and requested that China follow OIE standards, particularly on regionalization. The United States regretted that despite being HPAI-free, according to OIE guidelines, China still maintained the restriction. China had also not requested any additional information from the United States, further to its audit in July 2017. The United States urged China to remove all HPAI-related import restrictions and indicated its commitment to maintain its rigorous and effective surveillance for HPAI.

3.50. China replied that it had found problems with the prevention and control system of avian influenza in the United States in July 2017, based on its preliminary risk assessment. China had informed the United States of the problems detected, but had not yet received a response. China urged the United States to provide feedback in writing, as well as the requested supplementary information. China explained that there had been bilateral discussions on biosafety compartmentalization and regionalization methods, and kept an open mind on both methods. China added that it would again submit its standards on biosafety compartmentalization, in

writing, to the United States. Finally, China suggested that both parties establish coordinated standards on regionalization and biosafety compartmentalization under the OIE guidelines.

3.51. The United States clarified that, while it understood that China would like to purse compartmentalization, a formal compartmentalization proposal had not been received from China. Moreover, the United States noted that each country should separately be evaluated for recognition of regionalization or compartmentalization, following the procedure established by the importing country. The United States added that since both countries were in different stages of the process, it requested China to finalize the regionalization protocol that was provided following the July 2017 visit, and to remove all HPAI-related restrictions on imports from the United States, in line with its HPAI-free status, according to OIE standards.

3.2.15 South Africa's import restrictions on poultry due to Highly Pathogenic Avian Influenza - Concerns of the European Union (No. 431)

3.52. The European Union reiterated concerns over country-wide bans on imports of poultry products from several EU member States due to HPAI, despite all but one of them having been recognized as free from HPAI for months. The European Union recalled the OIE standard which stated that HPAI-related trade restrictive measures could be lifted after the application of a stamping out policy. This stamping out policy had been implemented in the affected areas of the European Union, and all trading partners, including South Africa, had been informed of this and other developments. The European Union explained that South Africa's decision not to accept HPAI zoning even after receiving relevant evidence disregarded the international standard and regionalization obligation under the SPS Agreement. The European Union indicated its bilateral engagement with South Africa, including an audit visit to three EU member States, and further urged South Africa to lift the country-wide bans without delay.

3.53. South Africa repeated its concerns regarding the effectiveness of HPAI-related control and preventive measures in the European Union. South Africa indicated its commitment to conduct inspection missions to EU member States, in order to evaluate the control measures and to ensure that no risk would be posed in poultry trade. South Africa further informed the Committee that its inspectors were currently in Spain, after having visited Hungary and Poland, following which the outcome of these visits would be communicated to the European Union.

3.2.16 EU restrictions on poultry meat due to Salmonella detection - Concerns of Brazil (No. 432)

3.54. Brazil reiterated concerns over the reinforced border testing controls in the European Union, which had resulted in increased reports of salmonella detections in poultry. In addition, Brazil pointed out that distinct microbiological criteria for fresh meat products and poultry meat preparations were unjustified, as the two products were similar. Brazil explained that it exported a considerable volume of uncooked salted poultry meat and seasoned poultry meat to the European Union, which were both commercially defined as "poultry meat preparations". However, Brazil argued that the food safety specifications for salted poultry meat should be the same as those applied to fresh poultry meat, since their intrinsic characteristics relevant to microbial food safety were virtually identical. In addition, both products were uncooked, had similar muscle fibre structure and were not intended for immediate human consumption. Brazil queried the scientific justification for the adoption of different food safety criteria for these products. Brazil also indicated that over 95% of the notifications of positive results in *Salmonella* detection by the European Union's Rapid Alert System for Food and Feeds (RASFF) were related to *Salmonella* in salted poultry meat, with no public health significance. Brazil further highlighted that the Standing Committee on Plants, Animals, Food and Feed was scheduled to discuss the delisting of Brazilian establishments which were currently authorized to export products of animal origin. Brazil emphasized that such a decision could have a negative result on Brazil's exports to the European Union and would constitute an unjustified barrier to trade.

3.55. The European Union acknowledged the difference in microbiological criteria for *Salmonella* for the two product categories as pointed out by Brazil, indicating that the scientific considerations were based on the opinion of the Scientific Committee on Veterinary Measures relating to Public Health on *Salmonellae* in Foodstuffs. The European Union stated that there was no justification for revising the criteria, and that they applied to both domestic production and imports into the

European Union. The European Union added that shipments from Brazil were subject to laboratory testing at 20% frequency at the EU borders in addition to the checks that were requested to be carried out by the Brazilian authorities on each consignment before the export takes place. These controls were put in place last year following the meat fraud scandal and on the basis of the results of an audit carried out in May 2017. However, despite the pre-export tests, the prevalence of *Salmonella* found in poultry meat consignments from Brazil at the EU border was close to 7% and this was a matter of concern. The European Union informed the Committee that the European Commission had recently carried out an audit in Brazilian poultry meat establishments, and that the report was under preparation. The European Union also explained that the delisting of Brazilian establishments was a separate issue under consideration by EU authorities, as it related to recurrent *Salmonella* detection in specific establishments, despite requests for Brazil to take appropriate measures. In relation to the problems of risk management and communication raised by Brazil in the November 2017 SPS Committee meeting, the European Union underscored its transparent system, highlighting that information on detections in both intra-European and international trade could be found in RASFF. Finally, the European Union noted that its measures were consistent with the SPS Agreement, and further indicated its willingness to continue bilateral discussions on this issue.

3.2.17 US seafood import monitoring programme - Concerns of China (No. 415)

3.56. China reiterated its concern on the Seafood Import Monitoring Programme and the Fish and Fish Product Import Regulations under the Marine Mammal Protection Act. China noted that aquaculture products had no relation to the false capture of marine mammals, and that the traceability of aquaculture products outside the United States did not help to prevent illegal, unreported and unregulated (IUU) fishing and fraud in aquatic products. China requested an explanation of the rationale for the inclusion of aquaculture products in the scope of application of the two bills, and further urged the United States to consider removing these products from the bills and to formulate laws consistent with the SPS Agreement.

3.57. The United States reiterated that the final rule was not an SPS measure and therefore fell outside the scope of the SPS Agreement. The United States also reiterated that the objective of the final rule was to combat IUU fishing and seafood fraud, and thus required US importers to report certain information upon entry into the United States and retain other information that would allow the shipments to be traced back to the point of catch or harvest in order to protect its market from being used to sell fraudulently marketed seafood or seafood products produced from IUU fishing. The United Stated also indicated its willingness to have bilateral discussions on the other measure mentioned by China, which was outside the scope of this trade concern on the US seafood import monitoring programme. The United States looked forward to its continued engagement with China.

3.3 Information on resolution of issues in G/SPS/GEN/204/Rev.18

3.58. The Secretariat recalled that in September 2017, it had contacted all Members who had raised specific trade concerns (STCs) to seek information regarding the status of each STC raised by that Member, which had not been discussed since March 2016. A compilation of STCs reported as resolved or partially resolved had been circulated in document RD/SPS/28 on 31 October 2017. Based on further exchanges with those Members, an updated version of the document had subsequently been circulated in RD/SPS/28/Rev.1 on 19 February 2018.

3.3.1 China's import ban on fresh mangosteen – Information from Indonesia (No. 416)

3.59. Indonesia expressed gratitude to China for lifting its import ban on fresh mangosteen from Indonesia, and for accelerating the market access for these products by signing an export protocol in December 2017. Indonesia indicated that it had relaunched its mangosteen exports to China in January 2018, and further expressed its commitment to continue fulfilling the required standards. Indonesia hoped that this protocol would continue to further strengthen the trade cooperation between Indonesia and China, as envisaged in Article 4 of the SPS Agreement.

3.60. China thanked Indonesia for providing information on the resolution of this trade concern and stressed the importance of bilateral discussions to resolve this issue. China expressed its

willingness to work with other Members to promote the smooth development of trade in agricultural products.

3.3.2 India's import restrictions on bovine semen – Information from the European Union (No. 61)

3.61. The European Union informed Members of the resolution of its concerns regarding India's import restrictions on bovine semen, which had initially been raised by Canada and supported by the European Union. The European Union thanked India for their cooperation on this issue.

4 OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT

4.1 Equivalence

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

4.2 Pest- and disease-free areas

4.2.1 Report on the Thematic Session on Pest-Free Areas

4.2. The Chairperson reported that a thematic session on pest-free areas had been held on 27 February 2018 as agreed by the SPS Committee in November 2017, based on a proposal submitted by the United States (G/SPS/GEN/1593/Rev.1). The purpose of the thematic session had been to provide an opportunity for Members to increase their awareness of IPPC standards on pest-free areas, and to share experiences about the challenges, as well as the benefits, of implementing pest-free areas in practice from the perspective of an importing, as well as an exporting party. This, in turn, would contribute to building confidence among trading partners when recognizing or seeking recognition of pest-free areas. The programme for the thematic session had been circulated in document G/SPS/GEN/1596/Rev.1, based on contributions received from Members.

4.3. In the Chairperson's introductory remarks, he had underscored the importance of thematic sessions for the work of the SPS Committee, in order to discuss particular SPS-related topics in an informal setting, and to hear the experiences of different Members in implementing specific provisions of the SPS Agreement.

4.4. In Session 1, the Secretariat had provided an overview of the provisions of the SPS Agreement on pest-free areas (Article 6) and the relevant guidelines (G/SPS/48), as well as relevant jurisprudence from recent disputes. Although the existing body of relevant jurisprudence focused on disease-free areas in relation to animal health, the Secretariat had highlighted that the legal findings from these disputes could be broadly applicable to pest-free areas.

4.5. The Chairperson had also highlighted the important role played by the IPPC, as the standard-setting organization for plant health referenced in the SPS Agreement. Unfortunately, due to unforeseen circumstances, the representative of the IPPC had not been able to attend the thematic session. However, arrangements had been made for a Member to present on IPPC's behalf, providing information on the IPPC standards on pest-free areas; factors to consider when establishing pest-free areas; implementation challenges; and information on the IPPC's Pest-Free Area Project.

4.6. The ensuing discussions in Session 1 had covered the role of dispute settlement panels in assessing the evidence provided by Members in relation to the determination of pest-free areas and the broad nature of IPPC standards, among others.

4.7. In Part 1 of Session 2, speakers representing COSAVE and IAEA had shared their regional and international perspectives on the establishment of pest-free areas. At the regional level, the importance of defining and maintaining a pest-free area had been highlighted and the role of a regional plant protection organization (RPPO) in supporting the phytosanitary activities of its members. At the international level, the use of the sterile insect technique as a tool for establishing and maintaining pest-free areas had been explained, as well as the associated benefits and challenges of this approach.

4.8. In Part 2 of Session 2, Members had shared their practical experiences on the establishment and maintenance of pest-free areas, as well as the legislative aspects and more general principles related to their implementation. Presentations had covered the use of pest-free areas in dealing with pests such as the Mediterranean fruit fly, oriental fruit fly, guava fruit fly and the red imported fire ant in different regions of the world. In addition to the speakers indicated on the programme, a couple of Members had taken the floor to share experiences in recognizing pest-free areas of their trading partners. The discussions had highlighted the importance of the early detection of pests, the availability of a corrective action plan to deal with outbreaks, and building trust among trading partners.

4.9. In concluding, the Chairperson had remarked that the thematic session had proven to be informative and interesting, and that it had provided a useful opportunity to increase Members' awareness of pest-free areas, from the perspective of international rules and guidelines, as well as their practical implementation by Members. The presentations from the Thematic Session would be made available on the SPS Gateway page. Finally, the Chairperson had thanked the presenters for their insightful and interesting presentations. The Chairperson had also acknowledged the willingness of Members to share their experiences.

4.10. The IPPC expressed regret for its unavoidable absence at the Thematic Session on Pest-Free Areas, due to weather-related travel delays. The IPPC conveyed its appreciation to the delegate from the United Kingdom for stepping in at the last minute to deliver the IPPC presentation. The IPPC also indicated its willingness to contribute to follow-up actions, if any, from the thematic session.

4.2.2 Information from Members

4.2.2.1 Dominican Republic – Freedom from Mediterranean fruit fly

4.11. The Dominican Republic informed the Committee that further to an outbreak of the Mediterranean fruit fly in March 2015 near Punta Cana, a technical committee had been formed with the assistance of the United States, FAO and IAEA to address this issue. The Dominican Republic further indicated that through resolution RS/MA/2017/11 (July 2017) of the Ministry of Agriculture, it had been declared free from the Mediterranean fruit fly. A country-wide surveillance programme had also been put in place for the early detection of fruit flies.

4.2.2.2 Thailand – Freedom from *Xanthomonus Stewartii* or *Pantoea Stewartii*

4.12. Thailand reminded the Committee that it had been declared free from *Xanthomonus Stewartii* or *Pantoea Stewartii* and that this information had been provided in document G/SPS/GEN/1352 on 7 August 2014. In addition, Thailand had reported the absence of *Xanthomonus stewartii* to the IPPC on 3 September 2013. Thailand indicated that some trading partners still required it to follow certain import measures to eradicate this pest, although Thailand had confirmed that it did not exist in Thailand, based on surveillance activities. Thailand requested Members to take this information into account.

4.3 Operation of transparency provisions

4.3.1 Report on the "technical revision" of the Recommended Transparency Procedures (G/SPS/7/Rev.3)

4.13. The Secretariat recalled that during the last Committee meeting in November 2017, it had proposed to prepare a "technical revision" of the current Recommended Transparency Procedures (G/SPS/7/Rev.3), to update outdated information related to the online tools, notification practices or notification templates.

4.14. On 6 December 2017, the Secretariat had circulated, through the SPS contact emailing list, a revised version of the Recommended Transparency Procedures with proposed track changes in the three WTO working languages, and Members had been given until end of January 2018 to provide any comments. No substantive changes had been made, although the revised document now included the text and the notification format contained in the Decision on Special and

Differential Treatment, document G/SPS/33/Rev.1, in order to consolidate all notification recommendations into one document.

4.15. On 27 February 2018, a clean version of the updated Recommended Transparency Procedures had been circulated in document RD/SPS/29. As compared to the version circulated in December 2017, this last version included comments received from Hong Kong, China. The main ones were:

- In paragraph 2.29, correction of the title of G/SPS/33/Rev.1, which now correctly read "Procedure to enhance transparency of Special and Differential treatment in favour of developing country Members", instead of "Procedure to enhance transparency of Special and Differential treatment in favour of developing countries"; and
- Under Annex E, the reference to G/SPS/19 had been changed to the latest revision G/SPS/19/Rev.2, and "European Communities" changed to "European Union".

4.16. In addition, this clean version incorporated the most recent templates and some minor formatting changes. For example, when listing items, the Secretariat had harmonized the use of bullet points (paragraphs 2.32-2.33).

4.17. Since Members had been given little time to consider the document, the Secretariat proposed that any comments be submitted until Friday, 23 March 2018. If no substantive comments were received, the updated Recommended Transparency Procedures would be circulated as document G/SPS/7/Rev.4.

4.3.2 Report on the Practical Manual for SPS NNAs and NEPs

4.18. The Secretariat recalled that in the November 2017 SPS Committee meeting, it had explained that the 2011 edition of the Step-by-Step Procedural Manual for NNAs and NEPs was being revised to incorporate the improved SPS NSS and IMS platforms and the new ePing notification alert system, as well as other general updates, and that this manual would be circulated for comments. This work had been done with the great assistance of Ms Sally Jennings from New Zealand, the original author of the manual.

4.19. This manual had been circulated on 24 November 2017 and the deadline for comments had been extended until the end of January 2018. The Secretariat thanked the following Members for their comments: Australia; Chile; the European Union; Hong Kong, China; the Philippines; and Ukraine. The Secretariat indicated that it was in the process of incorporating these comments and further indicated that the final deadline for Members to submit comments was Friday, 23 March 2018. The Secretariat also drew the Committee's attention to the suggested change in the title of the manual from "Procedural Step-by-Step Manual for SPS NNAs and NEPs" to "Practical Manual for SPS NNAs and NEPs".

4.20. The Chairperson requested Members to consider the above two documents and to send comments to the Secretariat by 23 March 2018.

4.3.3 Nigeria – Update on SPS notifications

4.21. Nigeria noted the importance of transparency for ensuring smooth, predictable and free trade, and also emphasized that the obligation to notify SPS measures was central to the implementation of the SPS Agreement. Nigeria provided information on 23 SPS regulations, which dated from 1962 to 2017, that were in the process of being notified to the WTO.

4.22. The Chairperson indicated that it might be useful for Nigeria to submit this information as a GEN document.

4.4 Special and Differential Treatment

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

4.5 Monitoring of the use of International Standards

4.24. The Chairperson reminded Members that the Committee had agreed in the November 2017 Committee meeting to circulate the convening airgram one week earlier than the previous practice. This meant that the original deadline for raising agenda items under the procedure to monitor the use of international standards, which was 10 days before the meeting, no longer coincided with the deadline for raising issues under other agenda items. In this regard, the Chairperson suggested that Members respect the earlier deadline for submitting issues under the monitoring agenda item, which in practice would mean that Members would submit all agenda items up to, but not including, the day on which the notice convening the meeting was to be issued.

4.5.1 New issues

4.5.1.1 United States – Unnecessary delays in adoption of Codex Food Additive Standards

4.25. The United States drew Members' attention to the challenge being faced in the Codex Committee on Food Additives (CCFA), where 1,200 food additive provisions were being blocked by certain Codex members, unless a note (i.e. Note 161) was appended specifying that the standard was "subject to the national legislation of the importing country…". The United States indicated that each of the substances in the blocked provisions had already been reviewed by the Joint Expert Committee of Food Additives (JECFA) and found to be safe. These roadblocks had hampered CCFA's ability to establish international standards for food additives, particularly in relation to provisions for colours and sweeteners. Recalling that Codex standards were not mandatory or binding, and that all Codex standards were subject to national legislation, the United States argued that inserting Note 161 might call into question the standard itself, or other Codex standards that did not contain the note, as well as damage the overall status of Codex standards. In addition, the United States was of the view that insertion of the note was not consistent with the role accorded to Codex, by the SPS Agreement, to foster international harmonization of standards.

4.26. The United States observed that in order to make progress in CCFA's work, Codex had adopted 400 food additive provisions containing this note over the past several years, however, certain countries had decided not to use food additive standards that contained Note 161, resulting in additives being banned without scientific justification. The United States further emphasized the far-reaching consequences of this issue, noting that many countries relied on the Codex General Standards for Food Additives as the basis for their national standards, and as such, the lack of adoption of these food additive provisions could prevent countries from permitting foods with these safe additives. The United States observed that this issue eroded the scientific foundation of Codex, and further urged Members to eliminate the use of Note 161, as well as to facilitate adoption of standards for safe additives. Finally, the United States requested Codex to provide the Committee with further information on this issue, in accordance with paragraph 9 of the Committee Decision contained in document G/SPS/11/Rev.1.

4.27. Argentina shared the concerns of the United States and reminded the Committee that in order for an additive to be included on the list of Codex permitted substances, a scientific risk evaluation of the substances had to be first undertaken by JECFA. This ensured the scientific foundation for decisions taken by CCFA. In this regard, Argentina underscored that the use of Note 161 was contrary to the spirit of Codex and its role as the international standard-setting body for food safety, as recognized by the SPS Agreement. Argentina considered that the inclusion of Note 161 could lead Members to reject the approval of additives, and to believe that they were exempted from undertaking a scientific risk assessment. Finally, Argentina highlighted the wide-ranging effects of this issue which deserved the attention of the Committee.

4.28. Codex informed the Committee that CCFA was developing a discussion paper to address the ongoing challenges being faced in relation to a number of issues, such as addressing the backlog of provisions in the General Standards on Food Additives, and availability of limited resources to CCFA. A draft version of this discussion paper was available on the Codex website and would be discussed in the upcoming March 2018 CCFA session. Codex invited Members and Observers to submit comments on the draft discussion paper.

4.5.2 Issues previously raised

4.5.2.1 European Union and the United States– HPAI restrictions not consistent with the OIE international standard

4.29. The United States reminded Members that the OIE guidelines for avian influenza stated that free status could be regained quicker in a previously free country, if it applied a stamping out policy that included disinfection of all affected establishments and provided that the appropriate surveillance had been undertaken. The United States also highlighted that restrictions on poultry meat or products subject to treatment that mitigated the HPAI virus were not scientifically justified. The United States reminded Members of their obligations under Articles 2 and 3 of the SPS Agreement, and urged Members to swiftly lift HPAI-related restrictions on US exports.

4.30. The European Union shared the concerns of the United States, highlighting its strict and transparent system of control. The European Union explained that it applied the same policies and guarantees to its intra-European Union trade, as to its exports to non-European Union countries. In the event of an outbreak of a contagious animal disease, the potentially affected parties were immediately notified via several channels, including directly and via the OIE's WAHIS. The European Union also noted that in the event of a prolonged disease outbreak, regular status reports were published on the European Commission – DG SANTE website. In addition, audit reports were published on the control systems in EU member States and non-EU countries importing to the European Union.

4.31. The European Union expressed regret that some Members applied country-wide bans, whenever there was an outbreak, and noted that this type of measure was not science-based. The European Union also noted that some Members did not provide information on the various steps of their recognition process for regionalization or did not inform Members of missing information required for the completion of the process and subsequent lifting of bans. The European Union urged Members to immediately lift all bans, no later than three months after the application of stamping out procedures and disinfection of all affected premises. The European Union indicated its continued willingness to further discuss the proper implementation of OIE international standards.

4.32. Chile supported the concerns raised and recalled Chile's previous experience with an outbreak of low pathogenic avian influenza (LPAI) in one particular region. Chile highlighted its actions undertaken to address the issue and the response of its trading partners. In particular, Chile noted that in the case of HPAI, a free status could be regained three months after the application of the OIE stipulated eradication measures, and further requested the OIE to provide information on its guidelines for LPAI.

4.5.2.2 United States – The relation of the World Health Organization and the Food and Agriculture Organization to Codex Alimentarius

4.33. The United States recalled that at the November 2017 SPS Committee, it had outlined its concerns regarding the relationship between Codex and its parent bodies, FAO and WHO. The United States noted that while it supported a close working relationship between Codex and its parent bodies, it also sought to heighten recognition of the difference in mandates and procedures of the three organizations. The United States underscored the dual mandate of Codex to protect the health of consumers and ensure fair practices in the food trade. Critical to this dual mandate was its inclusive, open and transparent standards development process, which relied on scientific and technical advice from public and private sector, as well as international organizations. The United States further highlighted that the SPS Agreement recognized the international standards and guidelines developed by Codex, setting Codex standards apart from those developed by FAO or WHO. The United States encouraged Members to support Codex's independent, member-driven development of science-based standards.

4.34. Canada recalled that Codex had been jointly established by the FAO and WHO, while highlighting the specific mandate of Codex and underscoring the different mandates of each of the three organizations. Canada noted that the 40th Session of the Codex Alimentarius Commission (2017) had concluded that WHO and FAO policies were to be taken into account, as appropriate, in accordance with the need to respect the unique and specific mandate of Codex. Canada recognized

the importance of expert scientific advice to Codex work and further indicated that the FAO/WHO Scientific Advice Programme had been operating with an annual deficit. Several needs had been identified, such as finding a sustainable funding solution; inviting the WHO to increase its contribution to Codex; and supporting the establishment of a blind trust fund designed to enhance contribution to scientific advice activities. Canada also called upon WHO and FAO, as the parent bodies, to provide predictable and appropriate funding for Codex scientific advice activities.

4.35. Argentina appreciated the work undertaken by WHO and FAO in various areas, including keeping Members aware of new and emerging issues. Argentina referred to the Codex Procedural Manual which was agreed upon by Members and the two parent bodies, noting the inherent member-driven process by which decisions were to be taken in Codex, while bearing in mind the opinion of the two parent bodies, other international organizations and interested stakeholders. Argentina emphasized the different mandates and procedures that guide Codex, FAO and WHO, and further underscored the need for Codex to concentrate on its dual mandate of protecting consumer health and promoting fair business practices in food trade, unless Members decided otherwise. Argentina further highlighted that, as the international standard-setting body for food safety recognized under the SPS Agreement, Codex's mandate and procedures should be respected and not undermined.

4.36. Chile reiterated the need to secure funding for the risk assessment activities being undertaken, and underscored the importance of Codex and its role in developing international standards in the food safety area.

4.37. The European Union indicated its commitment to provide financial support to the Codex risk assessment bodies (i.e. JMPR, JECFA and JEMRA), through a grant agreement of 402,000 euros during the period 2018-2020. The European Union further urged Members and the two parent bodies to consider more sustainable financing mechanisms to fund Codex scientific work, such as funding from the WHO's core budget.

4.5.2.3 United States – Non-use of Codex Guidelines and Principles on Official Import and Export Certificates

4.38. The United States reiterated its concerns regarding the potential negative impact on trade arising from unnecessary official export certification requirements that were not based on Codex guidance developed over more than two decades, and also not based on scientific justification and risk. The United States regretted the proliferation of new proposed requirements for official certificates – particularly for low-risk products. These requirements increased the burden on exporters, importers, consumers and governments, with often no identifiable public health or food safety benefit. The United States noted the ongoing work in APEC, and further called upon Members to reflect on these issues, to consult with their exporters and consider whether and how the Committee might support the work of Codex by advancing the understanding and use of the relevant Codex principles and guidelines in this area.

4.6 Catalogue of Instruments available to manage SPS issues – Proposal by Canada and Kenya (G/SPS/W/279/Rev.2, RD/SPS/16)

4.6.1 Report of the Informal Meeting

4.39. The Chairperson reported on the discussions at the informal meeting on 28 February 2018.

4.40. At the informal meeting on 28 February 2018, the Chairperson had recalled that Members had agreed on the content of the Catalogue of Instruments, and that everybody thought it was an extremely useful document. Yet the Committee had previously not been able to adopt it due to a divergence of views on the need to add a disclaimer to clarify its legal status.

4.41. The Chairperson had reminded Members that a new approach had been tried in the July 2017 SPS Committee meeting. This had entailed combining an introductory paragraph clarifying the intended use of the Catalogue with a soft disclaimer. This new language had been circulated in room document RD/SPS/16. One Member had subsequently submitted comments indicating that systemic concerns regarding the inclusion of disclaimers in Committee documents persisted, and the Chairperson had held consultations in October 2017 to try and resolve the issue.

4.42. The Chairperson had recalled the SPS Committee meeting in November 2017, where one Member had suggested organizing an exchange with legal experts from the Secretariat to explain the interpretation of Committee decisions and disclaimers. This suggestion had been supported by one of the authors of the Catalogue, who had also thought it could be helpful. In this light, the Chairperson had requested the Secretariat to organize such an exchange in order to help Members understand the legal implications of disclaimers.

4.43. At the informal meeting, an expert from the Legal Affairs Division had presented on the jurisprudence on disclaimers in Committee Decisions. The Chairperson had also recalled that a background note by the Secretariat entitled "Consideration of Disclaimers in WTO Panel and Appellate Body Reports" had been circulated by email the previous week.

4.44. Referring to this background note, the expert from the Legal Affairs Division had recalled the following observations contained therein:

- There had been no attempt by panels or the Appellate Body to develop a general body of jurisprudence relating to "disclaimers" as such, or a general body of jurisprudence relating to the legal status of Committee documents as such. Panels and the Appellate Body had instead taken more of a case-by-case approach, and refrained from making any broad pronouncements on the legal status of disclaimers or Committee documents, on whether differences in the language used in different disclaimers or Committee documents imply different legal consequences, or on how Members should formulate disclaimers or Committee documents to achieve certain objectives;
- When panels and the Appellate Body had expressly assessed the legal value of Committee decisions or other documents, they had in some instances offered such observations with specific reference to a disclaimer that may have been used in or in connection with the decision or document in question; in other instances, the assessment seemed to have been based as much on the content of the document itself as on the language in any disclaimer. It may therefore be difficult to discern from prior panel and Appellate Body reports how much weight had actually been placed on the existence and wording of any disclaimer, as an element distinct from the actual content of the document or action being considered.

4.45. He had then made the following factual observations relating to the compilation of selected extracts from prior panel and Appellate Body reports:

- No committee decision, recommendation or document had been treated as a self-standing source of legal rights or obligations;
- It appeared that in many cases committee decisions or recommendations had been referred to by the panels and the Appellate Body only to reinforce or support an interpretation that was either based on other grounds, or that was not contentious in that dispute;
- While the WTO Appellate Body report in *US-Tuna II (Mexico)* had found that the committee decision in question qualified as a "subsequent agreement" within the meaning of Article 31(3)(a) of the Vienna Convention on the Law of Treaties, panels and the Appellate Body had for the most part avoided engaging in technical and legalistic discussions of disclaimers, on the legal value of committee decisions, and on whether and where and how committee decisions fit within the framework of Articles 31 and 32 of the Vienna Convention on the Law of Treaties; and
- lastly, that there were several instances of WTO panels and the Appellate Body including statements in reports that indicated a degree of sensitivity to concerns of Members in relation to placing undue weight on documents such as committee decisions.

4.46. After this presentation, one Member had highlighted systemic concerns over the inclusion of disclaimers in committee decisions. Recalling paragraph 29 of the Nairobi Ministerial Declaration to reinvigorate the work of regular committees, this Member had noted that the SPS Committee had long reached consensus on the substantive text of the Catalogue, which should be Members' main focus, rather than the disclaimer. The Committee should not be scared by the possibility that panels and the Appellate Body would look at Committee decisions; they would use them as context. Discussions about disclaimers risked slowing down future work of this and other committees.

4.47. In response to concerns related to setting a precedent with the inclusion of a disclaimer in the Catalogue of Instruments and the effect that it might have on the work of other

WTO Committees, a third Member had pointed out that most SPS Committee decisions contained disclaimers.

4.48. One Member had stressed that no explanation had been received from those who were requesting a disclaimer on the reasons for this request, and had asked those Members to provide this explanation. Although other SPS Committee decisions contained disclaimers, all of them were slightly different; there was no horizontal solution for all situations.

4.49. Other Members had taken the floor to encourage all Members to strive to reach a middle ground in this matter and had welcomed proposals from Members on ways to reach a compromise. They had stressed the need for a collegiate, consensus-based approach to finalize this document and embark on new work, including the Fifth Review.

4.50. One Member had reiterated that WTO panels and the Appellate Body had used committee decisions only to reconfirm their interpretation of the WTO Agreements, and had expressed support for adoption of the Catalogue. Several other Members had taken the floor to reiterate their support for the Catalogue, and their wish to see it adopted, including the introductory paragraph in RD/SPS/16. They had again stressed the usefulness of this document.

4.51. In conclusion, the Chairperson had noted that the presentation and the resulting discussion had provided additional clarification on disclaimers in Committee decisions. There was almost universal support for the inclusion of a "soft" disclaimer in the document, as proposed in RD/SPS/16. The Chairperson stressed that Members needed to find a way to move forward and reach a compromise. This would also help the Committee to focus on the upcoming Fifth Review. Finally, the Chairperson had also announced his intention to propose the Catalogue of Instruments for adoption at the formal meeting.

4.52. The Chairperson proposed that the Committee adopt the Catalogue for Instruments available to manage SPS issues as contained in G/SPS/W/279/Rev.2 with the introductory paragraph as contained in RD/SPS/16.

4.53. Mexico expressed its appreciation to Members and the Secretariat for the work on the Catalogue of Instruments, and further noted several points related to the document and to the use of disclaimers in general. Firstly, Mexico highlighted its support for the idea of the document and secondly, indicated that it was in favour of the work of WTO Committees, given its relevance and importance as one of the main pillars of the WTO. It was for this reason that Mexico had maintained its opposition to the inclusion of disclaimers. Mexico placed on record its continuing legal concerns about the use of disclaimers in the SPS and other Committees, as well its use in past, current and future documents. Mexico noted that a vast majority of Committee decisions did not include disclaimers, which in its view should be the approach taken. In addition, Mexico argued that proponents of the disclaimer had neither concretely explained the reasons for the inclusion of a disclaimer nor given specific examples to illustrate their case. Instead, Mexico observed that Members had only made reference to the convenience of such disclaimers or that these disclaimers had been used in the past. Mexico underscored its concern that the inclusion of a disclaimer in the Catalogue of Instruments might have legal and systemic implications for the work of this and other WTO Committees, as had already been the case in the TBT and Anti-Dumping Committees.

4.54. Finally, Mexico stated that in this particular case, without renouncing its systemic concerns regarding the use of disclaimers, it had decided to give priority to the proposals submitted by Members and on reaching consensus, as this would promote the continued work of the Committee. In this regard, Mexico had accepted the language of the introductory paragraph as contained in RD/SPS/16. Mexico further indicated its commitment to monitor the integrity of the system so that disclaimers were only included in documents where there was genuine justification for their inclusion, and with uniform wording.

4.55. Brazil fully supported Mexico's statement and also placed on record its serious concerns on the use of disclaimer in a text which was only a compilation of existing SPS instruments. Brazil highlighted that disclaimers added an unnecessary level of complexity to the Committee's work, resulting in the loss of time due to repeated negotiations on the text of the disclaimer, instead of on the substance of the document, creating an overall negative systemic impact and undermining the work of the SPS Committee, among others. In this regard, Brazil recalled paragraph 29 of the

Nairobi Ministerial Declaration on reinvigorating the work of Committees. Brazil also observed that the burden of proof should fall on the proponents of the disclaimer and not on those Members who were against its inclusion. Finally, Brazil stated its support for the adoption of the Catalogue of Instruments.

4.56. The Chairperson thanked Mexico and Brazil for the flexibility shown on this issue and for giving priority to encouraging Members to raise issues and submit proposals for discussion in the Committee. The Chairperson noted that this approach would be helpful for the Committee, as it sought to embark on the Fifth Review. The Chairperson further reassured Mexico and Brazil that their stated concerns would be reflected in the summary report of the meeting.

4.57. The Committee adopted the Catalogue of Instruments available to manage SPS issues as contained in document G/SPS/W/279/Rev.2, with the introductory language in RD/SPS/16. The final document was subsequently circulated as G/SPS/63.

4.7 Proposed process for the Fifth Review

4.58. The Chairperson reported on the discussions at the informal meeting on 28 February 2018.

4.59. The Chairperson had reminded Members that in the last Committee meeting, the Secretariat had provided background information on the Review process in order to guide the Committee's consideration of the procedure for the Fifth Review. The Secretariat had explained that the Review process normally started with the Committee's consideration of a proposed procedure for the Review, with timelines identified for the various steps. The Committee had requested the Secretariat to prepare such a draft procedure for consideration and discussion at the present Committee meeting. In the regard, the Chairperson had drawn Members' attention to document G/SPS/W/296, circulated on 19 December 2017. The Secretariat had also provided an overview of the proposed process outlined in this document.

4.60. Some Members had indicated general support for the process laid out in G/SPS/W/296 and proposed adjustments. In particular, the Chairperson reported that a couple of Members had suggested revising the proposed calendar with a view to providing more breathing room between the various steps. They had also highlighted Committee workshops and thematic sessions as valuable sources of information for the Fifth Review. These Members had thought it would be useful for the Committee to engage in discussions on the process ahead, to reach a common understanding on expectations for the Fifth Review.

4.61. Recalling the challenges experienced in the Fourth Review, one Member had underscored that the process would benefit from an approach which would guide Members in moving forward in the process. The Member had expressed strong support for the use of written submissions as a means to identify subjects for consideration, and had stressed the importance of exchanges of experiences among Members as a foundation for reviewing the implementation of the SPS Agreement, specifically in relation to how Members had met their goals of ensuring food safety, animal and plant health, while still facilitating trade. In addition, this Member had highlighted the importance of ensuring that recommendations to emerge from the Review process be Member-driven, to facilitate reaching consensus.

4.62. In terms of the format of the report, one Member had suggested that the background document be kept succinct, with a focus on Members' shared concerns in relation to the implementation of the SPS Agreement. In particular, this Member had suggested placing less emphasis on the recommendations from the past. The focus should be on building consensus in order to generate an outcome. Another Member had proposed that one section of the report include factual and descriptive information on the work undertaken by the SPS Committee, while a separate section could provide information on the Fifth Review process and outcome. One Member had recalled a document with options to finalize the Fourth Review submitted by the United States, which could be useful for the resolution of difficulties, if they arose.

4.63. In summing up, the Chairperson had requested the Secretariat to modify the timelines of the proposed process in light of the discussions, allowing additional time for the initial submission by Members of the issues they had wished to be considered during the Review, and extending the

process beyond July 2019. Finally, the Chairperson had proposed to circulate a revised version of document G/SPS/W/296 for adoption at the formal meeting.

4.64. The Chairperson drew Members' attention to the revised document which had been circulated in document G/SPS/W/296/Rev.1 on 28 February 2018. The Chairperson proposed that the Committee adopt the revised document in order to start the process for the Fifth Review. The Committee adopted the proposed process for the Fifth Review as outlined in G/SPS/W/296/Rev.1.

4.65. The Chairperson thanked the Committee for agreeing to embark on the Fifth Review and urged Members to submit proposals for further discussion.

5 CROSS-CUTTING ISSUES

5.1. No issue was raised under this agenda item.

6 TECHNICAL ASSISTANCE AND COOPERATION

6.1 Information from the Secretariat

6.1.1 WTO SPS activities (G/SPS/GEN/521/Rev.13 and G/SPS/GEN/997/Rev.8)

6.1. The WTO Secretariat drew the Committee's attention to G/SPS/GEN/521/Rev.13, which provided an overview of all SPS specific technical assistance activities undertaken by the WTO Secretariat from 1 September 1994 to 31 December 2017. This document presented information on the number and type of activities delivered each year, including information such as the regions covered, languages used, participation of the international standard-setting bodies and much more. The document showed that since 1994 there had been 386 SPS-specific TA activities, with an overall participation of more than 14,700 persons. In 2017, 22 SPS-related training activities had been undertaken: one regional workshop; 12 national seminars; an Advanced SPS Course; a Thematic Workshop on Transparency; and seven courses organized by other organizations.

6.2. The Secretariat also indicated that document G/SPS/GEN/997/Rev.8[2] provided information on the planned TA activities for 2018. The activities included the Advanced Course on the SPS Agreement (to be held in Spanish) in October, and a Thematic Workshop to be held on the margins of the July 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 April 2018 for the thematic workshop and 8 June 2018 for the Advanced Course. Additional details on the dates of these planned activities, eligibility criteria, pre-requisites and application processes could be found in the document.

6.3. The Secretariat also reminded Members of its 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 Secretariat would schedule regional SPS workshops in 2018 upon request from regional organizations or a Member in conjunction with a regional organization. On this basis, one regional SPS workshop was scheduled to take place for Arab countries (co-organized with the IMF-Middle East Centre for Economics and Finance) in Kuwait during the week of 16 April 2018. The Secretariat noted that this workshop had been originally scheduled for the week of 19 November 2017, but had been postponed as previously announced in the November 2017 SPS Committee meeting. Two other regional SPS workshops were being planned with the Intergovernmental Authority on Development (IGAD) and the GCC Standardization Organization (GSO), at the request of these organizations.

6.4. The Secretariat provided an overview of the activities held since the last SPS Committee meeting in November 2017. These activities included five national seminars held in Argentina, Bangladesh, Belarus, Colombia and Papua New Guinea. More general training on the

[2] G/SPS/GEN/997/Rev.8/Add.1 was subsequently circulated on 16 March 2018.

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); and a SPS briefing session for Geneva Week.

6.5. The Secretariat also informed Members of upcoming national activities that were being scheduled for Bolivia, Costa Rica, Côte d'Ivoire, Saint Kitts and Nevis, Chinese Taipei, Tonga and Tunisia. 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 or by contacting the Secretariat.

6.6. Chad, Colombia and Nigeria expressed their appreciation to the Secretariat for organizing the various technical assistance activities. In particular, Colombia highlighted the usefulness of national seminars for capital-based officials.

6.7. Chad queried whether the Advanced SPS Course would be provided in other languages apart from Spanish. The Secretariat explained that the language of instruction of the Advanced SPS Course was rotated among the three official languages of the WTO. The last Advanced SPS Course in French had been held in 2016 and would be held next in 2020. The Secretariat further highlighted that Members could also request national seminars and that interested Members could approach the Secretariat for further information.

6.8. Nigeria sought clarification on the application process for regional SPS workshops in the event that a Member wished to request a regional workshop, but did not have an expression of interest from a regional organization. The Secretariat explained its demand driven approach for regional SPS workshops, highlighting that this approach sought to ensure that regional workshops were held on the basis of actual demand from the region. The Secretariat indicated its willingness to have further discussions with Nigeria on possible options, if Nigeria was interested in organizing a regional workshop.

6.1.2 Proposed Topic for the July 2018 SPS Committee Workshop

6.9. The Chairperson reported on the discussions at the informal meeting on 28 February 2018.

6.10. The Chairperson indicated that at the informal meeting he had recalled that the Secretariat had announced in the November 2017 Committee meeting that it planned to organize this year's Committee workshop on 9-10 July 2018. Members had been invited to submit proposed topics for the workshop. The Chairperson recalled the message sent out the week before the Committee meeting which indicated the three topics that had been suggested for the workshop, namely: (i) Private and commercial standards (G/SPS/GEN/1592); (ii) Control, inspection and approval procedures (i.e. Annex C of the SPS Agreement); and (iii) Export certification.

6.11. Several Members had taken the floor to express their support for the topic of control, inspection and approval procedures (i.e. Annex C of the SPS Agreement). Members had highlighted the need for the Committee to place additional attention on this topic, given its importance, the wide scope of implementation issues related to these types of procedures, and the resulting trade challenges faced by Members.

6.12. One Member had indicated interest in the topic of export certification, highlighting the importance of this documentation requirement for goods crossing borders and the linkages with the Trade Facilitation Agreement. Another Member had further suggested including export certification as one of the sessions in the workshop, while focusing more broadly on control, inspection and approval procedures as the main topic of the workshop. Several Members had indicated support for this suggestion.

6.13. In relation to the possible format for a workshop on Annex C, one Member had suggested the following sessions: review of relevant WTO texts and guidance; review of relevant STCs; information from Codex, IPPC and OIE on their work in this area; and sharing of Members' experiences in the implementation of Annex C. Several Members had indicated support for this format.

6.14. In summing up, the Chairperson had indicated that there was broad consensus for the topic of control, inspection and approval procedures (Annex C). The Chairperson had also indicated that, as per the suggestion of Members, the workshop could also include other related topics such as export certification.

6.15. In concluding, the Chairperson had invited Members to submit additional suggestions of sessions for the workshop, as well as speakers by 23 March 2018. Following which, the Secretariat would prepare a draft version of the programme for circulation and feedback.

6.1.3 STDF (G/SPS/GEN/1607)

6.16. The STDF Secretariat provided an overview of its activities, as circulated in document G/SPS/GEN/1607. The STDF highlighted that a survey had been conducted last year, aiming to analyze how the use of good regulatory practice (GRP) for the development, implementation and review of SPS measures could improve the quality and effectiveness of these measures. Information had been gathered on how SPS agencies, in particular in developing countries, were applying GRP. The STDF noted that 118 responses had been received from 64 countries and that the preliminary results and a background note with options for further STDF work on this topic were available on the STDF website (http://www.standardsfacility.org/good-regulatory-practice). These options would be discussed at the next STDF Working Group meeting on 20-21 March 2018.

6.17. The STDF also indicated that it had published a project results book, which had been made available to Members in the meeting room, and was also available in electronic format on the STDF website (http://www.standardsfacility.org/driving-sps-capacity-delivering-results-series). The book highlighted the results and impact of a number of STDF funded projects which had been implemented over the last decade. The purpose of this book was to share results and experiences gained, which could be useful for future design and implementation of projects aiming to strengthen SPS capacities in developing countries. The STDF thanked the collective work of its team members and in particular those who directly worked on the publication.

6.18. Finally, the STDF provided information on its projects and PPGs, noting that the STDF had approved seven new PPGs and nine projects in the previous year, which would benefit 24 developing countries (Africa, Asia, Latin America), corresponding to US$4.2 million in funding. The STDF explained that this went beyond the STDF Work Plan for 2017, which had envisaged the approval of four projects and four PPGs, for a total value of US$3.2 million. As a result, the STDF was in a delicate financial situation. The STDF affirmed its commitment to continue providing support to developing countries to build their capacities to implement international SPS standards and gain market access, but noted that this would depend on future funding. The STDF thanked its current donors for their support in 2017 and for the commitments for 2018, and further encouraged current, as well as potential donors to support the STDF in 2018 and in the future.

6.19. Nigeria expressed its appreciation for the STDF's work in undertaking SPS projects, and indicated its interest in reviewing the results and impact of STDF-funded projects. Nigeria highlighted the importance of project preparation activities and encouraged the STDF to further provide technical assistance and capacity building in this area for developing countries. Nigeria also appealed to donors to provide funds to the STDF.

6.2 Information from Members

6.2.1 Nigeria – Technical assistance received

6.20. Nigeria acknowledged the technical assistance provided by the Secretariat to Members, and also highlighted the SPS-related challenges faced in its vegetable exports to the European Union and hibiscus exports to Mexico, which had resulted in a significant loss of jobs for local farmers. Nigeria requested assistance in the areas of processing, pack houses and training of local farmers, and noted the need for more support to be provided to Nigeria and other developing countries.

6.21. Nigeria further informed Members that technical assistance had been received from UNIDO, with EU-funded support, to undertake activities leading to the identification of all outstanding SPS related regulations for notification. Nigeria indicated the need to establish a SPS-TBT notification system in order to avoid delays in submitting notifications to the WTO Secretariat, which would

also increase the efficiency of the NNA and NEP. Nigeria acknowledged AU-IBAR's support which had facilitated Nigeria's participation in the SPS Committee and USDA's support in the review of the Nigerian Food Safety Policy. Nigeria further encouraged donors to provide more support to Nigeria and other African Members in need of capacity building.

7 CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS

7.1. No issue was raised under this agenda item.

8 OBSERVERS

8.1 Information from observer organizations

8.1.1 IICA

8.1. The Chairperson drew attention to the report submitted by IICA contained in G/SPS/GEN/1597.

8.1.2 ECOWAS

8.2. The Chairperson drew attention to the report submitted by ECOWAS contained in G/SPS/GEN/1599.

8.1.3 IGAD

8.3. IGAD reported on recent activities of interest to the Committee, detailed in document G/SPS/GEN/1603. IGAD shared information on the technical support provided to its member States which included: a joint animal health regulatory bodies meeting; the development of regional policy briefs to enhance SPS compliance within IGAD member States; the 5th PPR Regional Control and Eradication Committee meeting to review the progress of the implementation of PPR strategies; and cross-border activities among Members to enhance joint surveillance and vaccination.

8.1.4 OIRSA

8.4. OIRSA reported on recent activities of interest to the Committee, detailed in document G/SPS/GEN/1604. OIRSA informed the Committee of the results of its visit to the Ministries of Agriculture of its member States, which had been undertaken to identify priorities for the region. Some of the priorities identified, included: strengthening of the animal and plant health laboratory testing system; improving the health status of countries in the region; and establishing a regional health intelligence system. OIRSA expressed appreciation for the support provided by Codex, IPPC and OIE in dealing with the various SPS-related issues in the region.

8.1.5 ITC

8.5. ITC reported on recent activities of interest to the Committee, detailed in document G/SPS/GEN/1606. ITC provided an update on several of its projects which included: (i) an EU-funded project on advancing Afghanistan trade; (ii) an STDF-funded project in Myanmar on food safety and compliance; (iii) a project funded by Finland on promoting intra-regional trade in eastern Africa; (iv) enhancing the export competiveness of the avocado industry in Kenya; (v) an STDF-funded feasibility study for value added addition in the fruit and vegetable sector in Sri Lanka; (vi) an EU-funded project on strengthening the national SPS institutional framework in Zimbabwe; (vii) supporting India's trade and investment for Africa; (viii) the Gambia youth empowerment project; and (ix) overcoming trade obstacles related to non-tariff measures in Arab countries. ITC also provided information on a new tool, http://www.HelpMeTrade.org, that had been launched with UNCTAD and WTO at the 11th WTO Ministerial Conference and which would help smaller firms benefit from trade. ITC further highlighted the ePing alert system and its NTM report for Bangladesh.

8.6. Nigeria noted the need for further guidance and capacity building on how to react to notifications, in order to ensure that Members were aware of the next steps to be taken after

receiving notifications through the ePing alert system. Nigeria also queried how the comments that were submitted were being taken into account by Members.

8.7. The Chairperson thanked Nigeria for its observations and indicated that the Secretariat was currently putting together a manual which would help answer questions related to the notification process and the ePing alert system.

8.1.6 GSO

8.8. GSO reported on its main activities of interest to the Committee during the period 2016 to 2017, highlighting that it had issued numerous standards and technical regulations covering various economic sectors, most of which had been adopted from international standards. During the past year, the GSO had established a new technical committee for halal products and services, whose mandate was to prepare and review technical regulations, manual, guidelines and recommendations relevant to halal foods and services. The scope of the committee would cover three main areas: (i) products; (ii) services and their facilities; and (iii) personnel associated with halal products. GSO also outlined the various activities which had been undertaken by its Technical Committee for Food and Agricultural Products, which had included issuing and updating standards, as well as translating standards from English to Arabic, and vice versa. GSO indicated its ongoing work on the development of a GCC rapid warning system for food, and its related participation in regional committees dealing with food and agricultural products. GSO drew Members' attention to its upcoming participation in the WTO Follow-up Regional SPS Workshop for Arab Countries to be held in April 2018, as well as its organization of a regional TBT/SPS workshop in October 2018. Finally, GSO expressed its gratitude to the WTO Secretariat for their support and cooperation.

8.2 Requests for observer status (G/SPS/W/78/Rev.14)

8.2.1 New requests

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

8.2.2 Outstanding requests

8.10. 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 November 2017 meeting, the Secretariat had been requested to verify whether any ad hoc observer organizations had not attended a single Committee meeting in 2017. The Secretariat had also been requested to contact any such organizations and seek information regarding their continuing interest to participate in the SPS Committee.

8.11. The Secretariat informed the Committee that it had contacted the six ad hoc observer organizations that did not attend any meeting of the SPS Committee during 2017, to request confirmation of their continuing interest to participate as an ad hoc observer in the meetings of the SPS Committee. These six 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.

8.12. 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 (APPC); and the International Cocoa Organization (ICCO).

8.13. 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 2018. The Chairperson further encouraged observer organizations to provide written reports on their relevant activities in advance of the July 2018 meeting.

9 ELECTION OF THE CHAIRPERSON

9.1. 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 2018.

10 OTHER BUSINESS

10.1 Indonesia – Risk management related to the global movement in plant seeds

10.1. Indonesia raised a concern regarding risk management in global trade and movement of plant seeds, observing that in the absence of appropriate phytosanitary measures, there was a possible risk of pathogens being transferred through plant seeds moving across national borders. This was due to the number of countries involved in the production, processing and packaging stages. In particular, Indonesia highlighted the possible risks associated with the export of seeds to Indonesia, which might not originate from exporting countries, but from transit countries. Indonesia stated that there was need for an international standard on pest risk analysis, as an initial step to identify the health status of imported plant seeds. Indonesia explained that it had circulated an official letter to all NPPO bodies of its trade partners, requesting the completion of a form which would provide technical information on the health of plant seeds. Indonesia urged Members to provide this information which would facilitate its risk analysis process and allow a transparent procedure for the trade of plant seeds. Indonesia indicated that its risk analysis process was endorsed by ISPM 38 on the International Movement of Seeds. Indonesia noted that the process did not create an unnecessary burden to the transboundary movement of seeds between Indonesia and its trading partners.

10.2. Nigeria highlighted that the requirements for a pest risk analysis on the movement of seeds were already contained in the ISPM. Nigeria also informed the Committee of the upcoming commodity standards that would regulate the bulk shipment of grains and commodities. With the introduction of this new standard, issues related to the movement of seeds for planting, as well as bulk shipment of commodities would be addressed by ISPMs.

10.3. The Secretariat informed the Committee that Indonesia had intended to raise this issue under the agenda item on monitoring of the use of international standards, but had been unable to meet the deadline for submission of agenda items. The Secretariat suggested that the information provided by Indonesia still be included in the annual report on monitoring which would be prepared for the Committee's consideration at the July meeting. The Committee agreed to this suggestion.

11 DATE AND AGENDA FOR NEXT MEETINGS

11.1. The next regular meeting of the Committee was tentatively scheduled for the week of 9 July 2018, with the thematic workshop on 9-10 July, an informal meeting on 11 July, and the regular meeting scheduled for 12-13 July 2018. The Chairperson informed Members that a provisional agenda for the July 2018 meeting would be circulated via e-mail.

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

- For submitting inputs for the programme of the Workshop on Control, Inspection and Approval Procedures, including suggestions of speakers: **Friday, 23 March 2018**;
- For submitting comments on the "technical" revision of the Recommended Transparency Procedures (G/SPS/7/Rev.3) and the transparency manual for NNAs and NEPs: **Friday, 23 March 2018**;
- For circulating a factual background document for the Fifth Review describing the Committee's work since the period covered by the report of the last Review: **Friday, 4 May 2018**;[3]

[3] All deadlines related to the process for the Fifth Review of the Operation and Implementation of the SPS Agreement are outlined in G/SPS/W/296/Rev.1.

- For submitting issues for consideration under the Fifth Review: **Friday, 1 June 2018**;
- For identifying new issues for consideration under the monitoring procedure and for requesting that items be included on the agenda: **Thursday, 21 June 2018**;
- For the distribution of the Airgram: **Friday, 22 June 2018**.