



Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 22-23 MARCH 2017

NOTE BY THE SECRETARIAT¹

1 ADOPTION OF THE AGENDA	4
2 INFORMATION SHARING.....	4
2.1 Information from Members on relevant activities	4
2.1.1 Turkey - Update of veterinary health certificate models (G/SPS/GEN/1531)	4
2.1.2 Japan – Update on the situation surrounding Japanese food after the Fukushima Daiichi nuclear power plant accident.....	4
2.1.3 Canada – Update on Safe Food for Canadians Regulation.....	4
2.1.4 Canada – The Electronic Service Delivery Platform.....	4
2.1.5 European Union – New EU legislation on plant health (G/SPS/GEN/1541)	4
2.1.6 European Union – Update on the Avian Influenza situation.....	5
2.1.7 Russian Federation – Information on the international conference "Food Safety and Risk Analysis", to be held in Sochi (Russia) on 18-19 May 2017.....	5
2.1.8 Russian Federation – Possible scenario on African swine fever spread in the Eurasian region.....	5
2.1.9 Russian Federation – Regionalization of the territory of the Russian Federation for infectious animal diseases.....	6
2.1.10 Brazil – Recent measures implemented on animal products.....	6
2.2 Information from CODEX, IPPC and OIE on relevant activities	6
2.2.1 CODEX	6
2.2.2 Resource mobilisation for the FAO/WHO Codex Trust Fund.....	7
2.2.3 IPPC.....	7
2.2.4 OIE.....	7
3 SPECIFIC TRADE CONCERNS	7
3.1 New issues	7
3.1.1 Viet Nam's suspension of groundnut seed imports – Concerns of Senegal	8
3.1.2 United States MRLs for chlorpyrifos – Concerns of Israel.....	8
3.1.3 EU non-recognition of regionalization for Avian Influenza – Concerns of the Russian Federation.....	8
3.2 Issues previously raised	9

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.

3.2.1 Chinese Taipei's import restrictions on Japanese foods in response to the nuclear power plant accident – Concerns of Japan (No. 387)	9
3.2.2 China's import restrictions on Japanese foods in response to the nuclear power plant accident – Concerns of Japan (No. 354)	9
3.2.3 European Union's revised proposal for categorization of compounds as endocrine disruptors – Concerns of Argentina and the United States (No. 382).....	10
3.2.4 The Russian Federation's Import Restrictions on Processed Fishery Products from Estonia and Latvia – Concerns of the European Union (No. 390)	11
3.2.5 The Russian Federation's import restrictions on certain animal products from Germany – Concerns of the European Union (No. 411)	12
3.2.6 China's import ban on fresh mangosteen - Concerns of Indonesia (No. 416)	12
3.2.7 General import restrictions due to BSE – Concerns of the European Union (No. 193).....	12
3.2.8 China's import restrictions due to African swine fever – Concerns of the European Union (No. 392).....	13
3.2.9 Korea's import restrictions due to African swine fever – Concerns of the European Union (No. 393).....	13
3.2.10 United States Seafood Import Monitoring Programme - Concerns of China (No. 415).....	14
3.2.11 China's proposed amendments to the implementation regulations on safety assessment of agricultural GMOs (G/SPS/N/CHN/881) – Concerns of the United States (No. 395).....	15
3.2.12 China's lack of transparency for certain SPS measures – Concerns of the United States (No. 184).....	15
3.3 Information on resolution of issues in G/SPS/GEN/204/Rev.17	16
4 OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT	16
4.1 Equivalence	16
4.1.1 Madagascar – South Africa's recognition of phytosanitary measures for lychee imports.....	16
4.2 Pest- and disease-free areas.....	16
4.2.1 Turkey – New regulation on zones free from notifiable avian influenza	16
4.2.2 Turkey - Declaration of freedom from <i>Xylella fastidiosa</i>	17
4.2.3 Senegal – Information on Spodoptera frugiperda	17
4.2.4 Madagascar – Information on pest and disease-free areas	17
4.2.5 European Union – Regionalization	17
4.2.6 Chile – Avian influenza	18
4.2.7 Chile – Recognition of freedom from fruit fly by Viet Nam	18
4.3 Operation of transparency provisions	18
4.3.1 Update on the ePing alert system and on the modernization of the SPS IMS and NSS	18
4.3.2 Report of the Informal Meeting.....	19
4.3.3 Transparency Proposal by Chile and the European Union (G/SPS/W/290)	23
4.4 Special and Differential Treatment.....	23
4.5 Monitoring of the use of International Standards	23
4.5.1 New issues.....	23

4.5.2	Issues previously raised	23
4.6	Fourth Review (G/SPS/W/279/Rev.2, G/SPS/W/280/Rev.2)	25
4.6.1	Report of the informal meeting	26
4.6.2	The report of the Fourth Review: Options for discussion – Proposal by the United States (G/SPS/W/291)	28
5	CROSS-CUTTING ISSUES	28
5.1	Workshop on Pesticide Maximum Residue Levels (MRLs): Possible next steps for consideration by the SPS Committee – Proposal by Kenya, Uganda and the United States (G/SPS/W/292)	28
6	TECHNICAL ASSISTANCE AND COOPERATION	29
6.1	Information from the Secretariat	29
6.1.1	WTO SPS activities (G/SPS/GEN/521/Rev.12, G/SPS/GEN/997/Rev.7)	29
6.1.2	STDF (G/SPS/GEN/1538).....	30
6.2	Information from Members	31
6.2.1	Senegal - Assistance received by the mango sector.....	31
6.2.2	Madagascar – Technical assistance received.....	31
6.2.3	Chile – Technical assistance activities.....	32
6.2.4	Burkina Faso – Technical assistance received	32
6.2.5	The Gambia – Technical assistance requested	32
6.2.6	Togo – Technical assistance received	32
6.2.7	Nigeria - Technical assistance received	33
6.2.8	Mozambique – Technical assistance requested.....	33
7	CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS.....	33
8	OBSERVERS.....	33
8.1	Information from observer organizations	33
8.1.1	CAHFSA.....	33
8.1.2	IGAD.....	33
8.1.3	OECD	34
8.1.4	OIRSA	34
8.1.5	IICA.....	34
8.2	Requests for observer status (G/SPS/W/78/Rev.14)	35
8.2.1	New requests	35
8.2.2	Outstanding requests	35
9	OTHER BUSINESS.....	35
9.1	Ecuador – Brazil's measures on shrimp (STC No. 344)	35
9.2	Chinese Taipei - Thailand's import restriction on papaya seeds.....	36
9.3	Peru – Regulation of the European Parliament and of the Council on Novel Foods	37
9.4	United States – Rules for interventions under 'Other Business'	37
9.5	Canada – Next steps on Fourth Review	37
10	DATE AND AGENDA FOR NEXT MEETINGS.....	37

1 ADOPTION OF THE AGENDA

1.1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its 68th regular meeting on 22-23 March 2017. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/SPS/14).

2 INFORMATION SHARING

2.1 Information from Members on relevant activities

2.1.1 Turkey - Update of veterinary health certificate models (G/SPS/GEN/1531)

2.1. Turkey informed the Committee that a revised veterinary health certificate for imports of dog chews, canned and processed pet food entered into force on 1 March 2017 as outlined in G/SPS/GEN/1531.

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

2.2. Japan provided an update on the developments since the last Committee meeting, reporting on the most recent data from its food monitoring programme and commenting on recent press articles. The latest data from the monitoring programme showed that the rate of products exceeding the Japanese standard limits had decreased and that all the test results, with the exception of fungi, wild plants and wild animals, were below the Codex guideline level. Japan recalled that the International Atomic Energy Agency had on various occasions recognized the efforts made by Japan to ensure food safety. Japan expressed concern over certain press articles implying that radiation levels measured in the nuclear reactors by recently-developed robots provided information on environment contamination, which would illustrate the danger of traveling to Japan or consuming Japanese food. Japan expressed appreciation to the American Nuclear Society for posting accurate information that could be used by others. Japan also expressed its appreciation to Iran, Lebanon, Mauritius, the United Arab Emirates and the United States for either lifting or easing import restrictions, and again welcomed visits from Members still maintaining import restrictions in order to better assess the current food safety situation.

2.1.3 Canada – Update on Safe Food for Canadians Regulation

2.3. Canada recalled the work undertaken since 2012 to modernize its food safety framework (G/SPS/GEN/1524). The draft of the Safe Food for Canadians Regulation (SFCR) consolidated existing federal food inspection regulations into one overarching set of requirements. The SFCR had been notified in January and comments were welcomed until 21 April 2017. Canada had held numerous consultations with stakeholders, including through an information session on the margins of the current Committee meeting. All comments would be considered and summarized in a document that would be circulated before publication of the final regulation. Further information was available on <http://www.inspection.gc.ca/safefood>.

2.1.4 Canada – The Electronic Service Delivery Platform

2.4. Canada informed Members of the development of the Canadian Food Inspection Agency's (CFIA) new electronic service delivery platform, "My CFIA". My CFIA aimed at providing a variety of online services such as export certificates, requests for licenses, permits and registrations. Although the existing system would be available during the transition period, Canada encouraged stakeholders to create an account during the platform's phased-in release in 2017. Requirements negotiated with foreign bodies would not be affected by the transition towards electronic certification. Additional information was available on the CFIA's website.

2.1.5 European Union – New EU legislation on plant health (G/SPS/GEN/1541)

2.5. The European Union provided an overview of its new Plant Health Law which entered into force on 13 December 2016 as Regulation (EU) No 2016/2031 and had been notified as G/SPS/N/EU/44/Add.2. The regulation constituted a new legal framework for plant health, providing comprehensive and clear rules for the prevention of entry into, and spread within, the EU

territory of pests injurious to plant health, which would apply from 13 December 2019. The Regulation classified all pests in three categories: regulated non-quarantine pests, protected-zone quarantine pests and union quarantine pests, amongst which those with the most severe impacts would be tagged as "priority pests". The Regulation introduced a new concept of "high risk plants, plant products and other objects", whose import would be prohibited until a thorough risk assessment had been carried out. Temporary import restrictions could be introduced when there was insufficient experience in terms of trade or risks were still unknown. For importation of living plant material, the European Union would request that phytosanitary certificates attest compliance with EU legislation. Additional information on the new Plant Health Law was available on the European Commission website and in G/SPS/GEN/1541.

2.6. In response to questions from Israel and Nigeria, the European Union indicated that possible new import restrictions would be based on science, in compliance with the SPS Agreement. It underlined that temporary import restrictions would be followed by a risk assessment. The European Union also noted that the concept of "priority pests" would not be relevant for international trade and remained open to further bilateral discussions.

2.1.6 European Union – Update on the Avian Influenza situation

2.7. The European Union recalled that it was facing its largest epidemic of highly pathogenic avian influenza of H5 subtypes following the introduction in October 2016 of H5N8 by wild birds from Asia. The virus subtypes detected during the epidemic were predominantly bird viruses with no increased affinity for humans and had affected different wild bird species before spilling over to poultry farms in 17 EU member States. The European Union provided information on the implementation of harmonized disease control measures such as the establishment of protection and surveillance zones around outbreak farms. The extent of the zones was established by the member States in co-operation with the European Commission which formally adopted the zoning by a Commission Decision which was published in the Official Journal of the European Union. The European Union emphasized the effectiveness of its disease control mechanisms, which in case of outbreaks in areas with high poultry density could give way to additional measures, including temporary standstill of all movements, preventive culling and bans on restocking. The European Union expressed its commitment to provide timely information to all trading partners on the developments of the epidemic as well as to enhance its epidemic preparedness. The European Union called on Members to recognize its regionalization measures and encouraged their active participation in the OIE to prevent and control further avian influenza outbreaks.

2.1.7 Russian Federation – Information on the international conference "Food Safety and Risk Analysis", to be held in Sochi (Russia) on 18-19 May 2017

2.8. The Russian Federation recalled the importance of food safety and international standards in international trade and informed the Committee of the "Food Safety and Risk Analysis" conference jointly organized with the FAO in Sochi, Russia, on 18-19 May 2017. It was expected that the event would attract more than 200 participants from government agencies, international organizations, the private sector, consumer groups and the scientific community, in order to discuss a variety of food safety-related topics, including risk assessment, management and communication, food contamination, antibiotic resistance, and capacity-building. The Russian Federation and the FAO invited Members to participate in this event.

2.1.8 Russian Federation – Possible scenario on African swine fever spread in the Eurasian region

2.9. The Russian Federation reiterated the importance of paying close attention to the spread of African swine fever (ASF) in Eastern Europe. The Russian Federation noted that its experience and position with regards to ASF had played a significant role in encouraging various response mechanisms. Although many such mechanisms, including disease prevention, control, and emergency plans were currently in place, they were insufficient to eradicate ASF. Since 2014, the disease had spread in many countries such as Estonia, Latvia, Lithuania, Moldova, Poland and Ukraine, and could affect other EU countries. The Russian Federation highlighted the importance of transparency and recalled that the spread of ASF benefitted from the ignorance, negligence or organized criminal activities of certain pork producers. Despite active research there was currently

no vaccine against ASF. The Russian Federation expressed its commitment to participate in international efforts to fight ASF.

2.10. The European Union again expressed its discomfort with the use of this agenda item for purposes other than providing information to Members on relevant activities. The European Union stated that the Russian Federation's repeated references to EU member States and speculations on which EU countries would be next affected by ASF were neither pertinent nor appropriate. Furthermore, the European Union noted that the Russian Federation's repeated statements on this topic were not the reason for understanding its importance. As stated in the past, the European Union was confident in the effectiveness of its ASF-related measures as well as in its participation and leadership in international cooperation and response against ASF.

2.1.9 Russian Federation – Regionalization of the territory of the Russian Federation for infectious animal diseases

2.11. The Russian Federation informed Members that its Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhozdnadzor) had adopted a decision establishing statuses for infectious animal diseases, which had entered into force on 1 February 2017, pursuant to Ministry of Agriculture Order No. 635. The Russian Federation explained that 3,000 zones of its territory would be divided into the following infectious animal diseases categories: disease-free, non-identified, and disease-affected. In addition, these zones would be subdivided into regions with or without vaccination for transboundary animal diseases, including ASF, lump and skin disease, and foot and mouth disease. The Russian Federation further noted that the decision provided requirements for movements of live animals and animal products between regions with different animal health statuses and that these statuses could change over time. The Russian Federation indicated that the decision applied basic regionalization criteria to disease-free zones which complied with the OIE Code provisions, but also included certain more stringent criteria such as the possibility to designate an exception zone within a disease-free region. Further details on the regionalization system of the Russian Federation and Geographic Information System (GIS) maps were available on the Rosselkhozdnadzor's website.

2.1.10 Brazil – Recent measures implemented on animal products

2.12. Brazil provided information on the recent disclosure of irregular practices by the Ministry of Agriculture regarding the certification of meat and meat products. The Brazilian authorities had either halted or were re-auditing the processing facilities allegedly involved in irregularities, while their export authorizations had been preventively suspended. Brazil recalled its high ranking among animal protein exporters world-wide, which required frequent and strict audits to access demanding markets. It relied on solid inspection services as well as food quality and safety control programmes. While recognizing the seriousness of certain auditors' misconduct, Brazil underlined that such misconduct did not reflect Brazil's overarching agriculture and livestock inspection systems. Brazil reaffirmed its commitment to transparency and cooperation with all trading partners, including through the Brazilian Mission in Geneva, and called upon Members not to resort to measures which would constitute arbitrary restrictions on international trade. More information was available in document G/SPS/GEN/1545.

2.2 Information from CODEX, IPPC and OIE on relevant activities

2.2.1 CODEX

2.13. Codex provided an overview of recent and upcoming events as contained in G/SPS/GEN/1540. Codex noted that Members' participation in hosting or co-hosting these events allowed for considerable budgetary savings. Codex explained that it constituted the middle pillar of the joint FAO/WHO Food Standards Programme and its activities were essentially divided between scientific advice and capacity building. Codex expressed appreciation and interest in the Committee discussions on possible follow-up actions to the Thematic Workshop on Pesticide MRLs. On capacity building, Codex informed that, after twelve years, it was currently renewing the Trust Fund and welcomed contributions.

2.2.2 Resource mobilisation for the FAO/WHO Codex Trust Fund

2.14. The WHO provided information on the new edition of the FAO/WHO Codex Trust Fund ("the Trust Fund") and raised awareness on the need for further donations. The Trust Fund supported all Codex capacity-building activities and relied on voluntary contributions, as opposed to the scientific advisory activities financed through regular contributions. A first edition of the Trust Fund had focused on delegates' participation in Codex meetings. The second Trust Fund launched in January 2016 focused on building capacity in countries with weaker national Codex structures to increase their participation in the development of standards and other areas of Codex scientific advisory work. The Trust Fund was currently facing funding difficulties for the period 2017-2019. WHO strongly encouraged Members to help raise awareness within their governments of this food safety and development instrument. The Trust Fund secretariat stood ready to work with all interested parties to secure new contributions. Further information is available in document G/SPS/GEN/1534.

2.15. Canada, Chile, the European Union, Japan, Nigeria and Senegal expressed high appreciation of the work of the Trust Fund and strongly encouraged Members who had not done so to make contributions to fund Codex capacity-building activities.

2.2.3 IPPC

2.16. The IPPC provided an update on its recent and upcoming activities (G/SPS/GEN/1533). It highlighted ten major achievements of 2016, and recalled that the 2017 annual theme was "Plant Health and Trade Facilitation". The IPPC expressed its gratitude to the Republic of Korea for hosting the upcoming 12th Session of the Commission on Phytosanitary Measures (CPM) on the occasion of its 65th anniversary and encouraged Members to participate in this event.

2.17. In response to comments and questions from Kenya, Nigeria and Senegal, the IPPC highlighted that the ePhyto project illustrated the importance of e-certification to fill the gap between developed and developing countries. It noted that ePhyto was a tool or recommendation, not a standard, and would need to be implemented with additional measures and procedures to improve the trade facilitating process. The IPPC recalled that the ePhyto pilot project involved 16 developing and developed countries, and expressed appreciation of Kenya's high implication in this project. The IPPC highlighted that it would organize comprehensive side events at CPM-12 on ePhyto as a tool to promote safe and fast trade.

2.2.4 OIE

2.18. The OIE updated the Committee on recent developments in its standard-setting work and its capacity building activities as outlined in G/SPS/GEN/1543. It noted that specific chapters of the Terrestrial and Aquatic Codes as well as the Glossary would be proposed for adoption at the upcoming General Session of the World Assembly of Delegates in May 2017. The OIE also highlighted work of the ad-hoc group on antimicrobial resistance. Finally the OIE informed the Committee that the World Assembly would consider the adoption of a new procedure for the selection and nomination of experts to the specialist commissions.

3 SPECIFIC TRADE CONCERNS

3.1 New issues

3.1. Two new specific trade concerns (STCs) which had been included in the proposed agenda for the meeting were withdrawn following bilateral consultations. These were: (1) Senegal's concern regarding India's fumigation requirements for cashew nuts; and (2) Japan's concern regarding Thailand's import restrictions on plant products.

3.2. The Secretariat drew attention to the recently released annual compilation of STCs (G/SPS/GEN/204/Rev.17). The report compiled all STCs raised in the SPS Committee during 2016. A total of 37 STCs had been discussed, of which 13 were new STCs, and 24 had been previously raised. Three STCs had been reported as resolved or partially resolved.

3.1.1 Viet Nam's suspension of groundnut seed imports – Concerns of Senegal

3.3. Senegal noted that, as of 11 July 2016, Viet Nam had suspended its imports of groundnut seeds from Senegal following Decision No. 2838/QĐ-BNN-BVTV, due to the detection of two destructive pests in groundnut seeds exported to Viet Nam. Senegal confirmed that one fumigation company had not respected pre-fumigation procedures and its quarantine authorities had taken corrective measures, including strengthening procedures for issuing quality certificates and establishing a roadmap to further protect plant health. Senegal appealed to Viet Nam, which was a major importer of Senegalese groundnut seeds, to undertake a risk analysis of their measures and remained open to bilateral discussion.

3.4. Viet Nam stated that between February and June 2016 it had intercepted 48 containers of groundnut seeds infected with two regulated quarantine pests absent from its territory. Viet Nam noted that despite alerting the Senegalese authorities of the detection of non-compliant consignments, Senegal had not tightened its controls sufficiently. Viet Nam's temporary suspension was in compliance with IPPC and domestic regulation and was aimed at preventing the spread of the two pests in its territory. As bilaterally notified, Viet Nam encouraged Senegal to improve cooperation and provide technical reports to assess the situation. Viet Nam welcomed further bilateral discussion to resolve the matter.

3.1.2 United States MRLs for chlorpyrifos – Concerns of Israel

3.5. Israel expressed its concern regarding the United States proposed rule to withdraw its food pesticide residue tolerances for chlorpyrifos. Following the notification of the proposed text in November 2016 (G/SPS/N/USA/2912), Israel had submitted comments to the United States and discussed the issue bilaterally at various fora. Israel explained that chlorpyrifos was produced in Israel, used on some 20 major crops exported to the United States, and considered an efficient and cost-effective broad spectrum pesticide. It was less disruptive to beneficial insects than alternative pesticides and a good rotational option. Also, for several important pests, growers had limited or no viable alternatives to chlorpyrifos. Israel noted that the United States' decision was based on three studies conducted in residential areas using chlorpyrifos for indoor pest control, which could cause hand-to-mouth contact as well as dermal or inhalation exposure. According to Israel, the results of these studies did not suggest that the relevant Codex MRLs (insecticide ID-17) were unsafe for agricultural products. Israel believed that the United States' deviation from the existing international standard was not scientifically justified. The United States needed to develop individual risk assessments on the use of chlorpyrifos for each agricultural crop of concern, taking into account all available scientific evidence as well as the objective to minimize negative trade effects.

3.6. Ecuador echoed Israel's concern, underlining that chlorpyrifos was broadly used worldwide and in Ecuador since 1989 on a variety of crops, including bananas majorly exported to the United States. Ecuador called for the United States to scientifically justify its measure and highlight the risks to human health, considering that the measure seemed to be based on studies carried out on the agricultural use of chlorpyrifos. Ecuador also asked if the United States would undertake individual risk assessments for different agricultural products based on Codex standards. Finally, Ecuador expressed a special concern with the adoption date of 31 March 2017 and the strong effects that it would have on trade.

3.7. The United States confirmed that all comments received would be considered by the Environmental Protection Agency (EPA) in finalizing the proposed measure. While the United States appreciated that many comments called on EPA to base its residue levels on Codex standards, it recalled the right of Members, in line with the SPS Agreement, to carry out their own risk assessments. Further information on the scientific assessments used was available in G/SPS/N/USA/2912.

3.1.3 EU non-recognition of regionalization for Avian Influenza – Concerns of the Russian Federation

3.8. The Russian Federation expressed its concern with the EU's non-recognition of Russian regionalization for avian influenza since November 2016. The Russian Federation had been affected by an outbreak of avian influenza and had applied regionalization to guarantee trade of

poultry products in compliance with both its WTO commitments and OIE standards. While the Russian Federation recognized EU regionalization for avian influenza, the European Union banned imports of poultry products from the entire Russian territory, despite establishing zones of control and monitoring as well as promptly sharing information with the European Union. The Russian Federation voiced its special concern with the European Union's stringent interpretation of certain articles from the OIE Terrestrial Code, especially its requirement to submit virus isolates to the EU reference laboratory. In September 2014, following an avian influenza outbreak in Altai, the European Union had refused to resume exports until the virus isolate was sent to the EU reference laboratory. The Russian Federation noted that it systematically sent virus isolates to its national reference laboratory, which complied with OIE standards. It did not object to submitting the virus isolates to the EU reference laboratory, but considered the mandatory nature of the requirement unnecessarily trade-restrictive. In September 2016, the EU and Russian reference laboratories had signed a memorandum of understanding on the transfer of materials and had since exchanged virus isolates. The Russian Federation hoped that this cooperation would facilitate trade and lead to the EU recognition of Russian regionalization for avian influenza.

3.9. The European Union responded that it was in contact with Russia in order to acquire the relevant information necessary to assess Russia's request for regionalization. The evaluation of the Russian Federation's request for recognition of regionalization would be completed as soon as all necessary information had been received in line with OIE guidelines. The European Union welcomed further bilateral discussion on this matter.

3.2 Issues previously raised

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

3.10. Japan again raised its concern regarding Chinese Taipei's import ban on food from five Japanese prefectures in response to the nuclear power plant accident. Japan recognized Chinese Taipei's efforts since August 2016, including on-site visits to farms and food processing plants as well as to the Fukushima Daiichi Nuclear Power Plant. Chinese Taipei had considered lifting the ban but was still in the process of informing the public. In November 2016, it had held public hearings which had been allegedly held in a hasty manner. Additional hearings that had been scheduled to take place before January 2017 had been delayed. Meanwhile, Chinese Taipei had introduced new labelling requirements after finding that certain food products contained soy sauce from the five prefectures subject to the import ban, in spite of testing negative for radionuclide residues and being regularly imported by Chinese Taipei. Japan urged Chinese Taipei to adopt measures that were consistent with the WTO Agreements.

3.11. Chinese Taipei recalled that it had reviewed its current measures following its cross-ministerial expert delegation visit to Japan in August 2016. Chinese Taipei referred to previous statements and reiterated its willingness to cooperate with Japan to solve this issue bilaterally.

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

3.12. Japan reiterated its concern regarding the import restrictions imposed by China on Japanese food exports in response to the nuclear power plant accident. Japan recalled that China's import restrictions on Japanese products since June 2011 were amongst the most stringent measures, while an increasing number of WTO Members had already lifted or eased their import restrictions on Japanese foods. China's import ban was still imposed on all types of food and alcoholic beverages from ten Japanese prefectures and on various types of food products from the remaining prefectures. Japan expressed its particular concern with China's ongoing risk assessment. In November 2016, it had again submitted a large amount of documentation for China's risk assessment process, which seemed to be continuously held at the stage of considering the latest data submitted. In addition, Japan called upon China to communicate science-based information on food safety matters to avoid misleading interpretations by the public on the safety of Japanese foods.

3.13. China recalled that it had imposed a ban on imports of certain high-risk products from ten nuclear-contaminated areas in Japan after the power plant accident in 2011, in full compliance with the SPS Agreement. China took note of the Japanese and international media reports, comments and studies that generally believed that the Japanese government lacked effective means to deal with radioactive waste, the discharge of which posed risks to the marine environment and public health, that information disclosure was not transparent and that food safety related data were not sufficiently convincing. According to a report released in February 2017, radiation at the nuclear reactor was at its highest since the 2011 meltdown. China urged Japan to promptly communicate accurate and reliable food safety information. The consequences of radioactive leaks on the marine environment, food safety and human health concerned all neighbouring Members, not only Japan. China noted that food safety risk assessment could be a lengthy process, especially on such a technical and complex topic. China urged Japan to take effective measures to ensure its food safety, while continuing bilateral cooperation towards finding a solution.

3.14. Japan recalled that the matter at hand were the levels of radionuclides in food, which according to its measures were safe, and therefore China's attention should focus on food safety instead of environmental matters.

3.15. China responded that food safety was threatened by numerous contaminants which could originate from environmental pollution, and that food safety risk assessment involved the process of identifying, analyzing and characterizing a food-related health risk, including risks that might arise from contaminated water, soil and other aspects of the environment. China encouraged Japan to disclose all factual and accurate information on this issue.

3.2.3 European Union's revised proposal for categorization of compounds as endocrine disruptors – Concerns of Argentina and the United States (No. 382)

3.16. The United States reiterated its concern regarding the European Union's proposal for categorization of compounds as endocrine disruptors (EDs) and amending Regulation No. 1107/2009, which would require the withdrawal of existing authorizations for certain substances without a risk assessment. The United States thanked the European Union for their written responses, while noting that they did not provide scientific justification for the establishment of hazard-based criteria. While the proposed criteria for identifying EDs did not consider potency and exposure factors, they would still be used to both identify hazard and deny authorization for certain pesticides. The United States again asked the European Union to explain how the hazard-based "cut-off" criteria would be applied in practice to pesticides determined to be safe under a risk-based approach and undergoing the renewal process. In particular, the United States expressed concerns with the European Union setting MRLs at low default levels without scientific justification for substances no longer approved under the hazard-based approach.

3.17. The United States also expressed its concern with the European Union's decision in December 2016 to split the proposal into two stand-alone policies: a proposal to establish criteria for identifying EDs; and another one to amend the derogation criteria from "negligible exposure" to "negligible risk". The split approach could impact more importantly on trade if the two policies were not finalized simultaneously. In this context, the United States asked if it would be possible to file an import tolerance for a substance designated as ED or carcinogenic, mutagenic, or toxic for reproduction (CMR), and which did not benefit from the European Union's derogation. The United States again urged the European Union to base its SPS measures on a transparent and risk-based approach and highlighted that the proposal would severely impact trade while marginally improving human or environmental health. The United States indicated that it would provide additional written questions regarding the proposed derogation process.

3.18. Argentina echoed the statement made by the United States, emphasizing that the European Union's proposed hazard-based approach would not efficiently assess risks posed by ED substances and did not include essential elements of risk characterization such as potency, severity and reversibility of effects. Argentina questioned the selection of criteria under option 2 rather than option 4, which would have been less trade burdensome while guaranteeing a similar level of human health protection. It shared the concern voiced by the United States regarding the European Union's recent decision to split the original draft regulation notified in G/SPS/N/EU/166 into two proposals, leaving out the derogation process. If the European Union

approved the proposal based on this new approach, it would need to notify it, as it would constitute a different measure severely impacting on trade without scientific justification.

3.19. Australia, Brazil, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, India, Kenya, Madagascar, Malaysia, Nigeria, the Philippines, South Africa, Chinese Taipei, Thailand, Uruguay and Viet Nam shared the concerns expressed by Argentina and the United States, and called upon the European Union to adopt a risk-based approach in compliance with the SPS Agreement. They underlined, inter alia, their special concerns over the hazard-based approach, the split of the proposal between identification criteria and derogations, and the importance of this issue and its potential negative trade impacts. In particular, Canada estimated that the proposed regulation could affect 60% of their plant protection products for wheat and soy crops, and up to 75% in the case of canola production. Australia and Kenya also noted that under the proposed regulation, many plant protection products which presented no alternatives would be banned. Many Members expressed their appreciation to the European Union for their transparency efforts, and Australia encouraged the European Union to provide updates on the work of the European Food Safety Authority and European Chemicals Agency in reviewing and prioritizing chemicals as EDs.

3.20. The European Union reiterated its commitment to transparency, recalling that it had duly notified the proposals and circulated a compilation of the responses to comments received in February 2017. The proposals, which were going through the relevant regulatory procedures, had been revised to clarify burden of proof and criteria scope, but no substantial change had been introduced to the proposal originally notified. The decision to split the plant protection products proposal into two separate texts, one on identification criteria and another on the technical amendment to the clause on negligible exposure, was to facilitate decision-making. The European Union encouraged Members to share their statements in writing and reiterated its commitment to continue informing the Committee of further developments.

3.2.4 The Russian Federation's Import Restrictions on Processed Fishery Products from Estonia and Latvia – Concerns of the European Union (No. 390)

3.21. The European Union reiterated its concerns regarding the Russian Federation's restrictions on imports of processed fishery products from Estonia and Latvia. The European Union recalled that in June 2015, following an audit carried out in some establishments in Latvia and Estonia, Russia had introduced a ban on the import of all fishery products from those two EU member States. The European Union stated that the ban was inconsistent with various provisions of the SPS Agreement because it was not based on science, did not respect the necessity principle and was more restrictive than necessary. The European Union also noted that the measures did not respect the Russian Federation's WTO accession commitments.

3.22. The European Union underlined that Latvia and Estonia had acted without delay in response to the findings of the Russian Federation in 2015, and had put in place corrective measures within the timeframes set by the Russian Federation. Those actions had been brought to the attention of the Russian Federation, which carried out subsequent audits in 2016 to verify the corrective actions. The European Union added that Latvia and Estonia had addressed all the requests from the Russian Federation authorities for information or clarification, but the results of their audits had not been communicated and the bans remained in place. The European Union reiterated its call to the Russian Federation to repeal the ban while expressing its readiness to work with the Russian Federation in a constructive and cooperative manner.

3.23. The Russian Federation responded that the temporary restriction imposed on supplies of canned products from a number of fish processing plants in Latvia and Estonia was well founded. The Russian Federation had informed the SPS Committee of the matter on numerous occasions: The violations in the process of ensuring the safety of fishery products were caused by systematic deficiencies in the work of competent authorities and the establishments of the countries concerned as confirmed by the inspections carried out by the experts.

3.24. The Russian Federation observed that the attention drawn by the Rosselkhozdnadzor to the issue and an additional joint inspection at the fish processing plants of Latvia and Estonia had led to positive measures by the veterinary services. However, some matters remained outstanding. Pursuant to the relevant procedures, the results and conclusions of inspections were being

finalized by the competent authorities of the Eurasian Economic Union (representatives of which had also taken part in the inspection). The Russian Federation would transmit the report of the inspection to Latvia and Estonia in the near future, and remained prepared to make all the necessary efforts to find a solution to the issue.

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

3.25. The European Union recalled that since 2013, the Russian Federation had maintained a ban on imports of pig, beef and poultry meat from Germany, and a ban on imports of meat and milk products from three German federal states. These import restrictions had been implemented due to claims by the Russian Federation that German veterinary services had not undertaken proper controls on the exports of these products. The European Union (i) reaffirmed that the restrictions were inconsistent with several provisions of the SPS Agreement; (ii) regretted that, despite the work done by the German authorities, after four years the bans still remained in place; and (iii) urged the Russian Federation to repeal the measures. Finally, the European Union reaffirmed its willingness to cooperate with the Russian authorities.

3.26. The Russian Federation recalled that temporary restrictions on supplies of livestock and dairy products from Germany were imposed following results of inspections in 2013 and 2015, which had revealed non-compliance with Russian SPS requirements. The Russian Federation announced that it was developing an instruction on the compliance of inspections with the requirements of the Russian Federation and the Eurasian Economic Union.

3.27. The Russian Federation reported that the latest developments had been discussed by the Head of the Russian Rosselkhozdnadzor and the State Secretary of the Federal Ministry of Food and Agriculture of Germany in January 2017 in Berlin, and during the visit of Mr. Helmut Brunner, Minister of Food, Agriculture and Forestry of the Land of Bavaria to Moscow in March 2017. Following those consultations, technical consultations on the issue with representatives of the German Veterinary Services were scheduled for April 2017.

3.2.6 China's import ban on fresh mangosteen - Concerns of Indonesia (No. 416)

3.28. Indonesia reiterated its concern regarding China's import ban on fresh mangosteen fruit since 2013. Indonesia recognized China's right to adopt measures to protect human, animal and plant health, but noted SPS measures should not be discriminatory nor more trade restrictive than necessary. Indonesia reported that it had taken actions to resolve the alleged pest and heavy metal contamination detected on its mangosteen fruits. Such actions included field and laboratories verification, as well as accommodating China's Draft Export Protocol.

3.29. Indonesia explained that all procedures required for the export of mangosteen fruits to China had been completed, and therefore urged a positive response from China to resolve the issue. Indonesia expressed its willingness to continue bilateral engagement.

3.30. China stated that in 2013 it had detected quarantine paraputo hispidus and other harmful organisms and had measured levels of cadmium in Indonesia's mangosteen exports above the level specified in its standard. China noted that following several inspections and consultations, China and Indonesia had reached consensus on the Protocol of Phytosanitary Requirements for exporting mangosteens from Indonesia to China in September 2016. China reported that it was conducting the relevant internal legal procedures, and urged Indonesia to continue working closely with the competent authority of China with a view to finding a mutually satisfactory solution to the issue.

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

3.31. The European Union reiterated the importance of this long-standing concern, recalling its conviction that BSE-related science was solid and that the European Union fully followed the relevant OIE standards that guaranteed safe trade. However, some WTO Members kept bans in place due to BSE, arguing the need for further assessments before imports could take place and which could amount to undue delays and lack of transparency in the approval procedures, contrary

to Article 8 of the SPS Agreement. The European Union also stressed the SPS requirement that WTO Members not discriminate between Members where identical or similar conditions prevail, as was the case in European Union member States, following the strict implementation of the European Union's harmonized SPS framework.

3.32. The European Union welcomed the recent market access granted by the United States to an additional EU member State, and the lifting of China's import ban on products from some EU member States. The European Union urged those and other Members - such as Malaysia and Korea - to ensure that beef from the European Union could soon be exported and address the backlog of applications submitted by EU member States.

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

3.33. The European Union again raised its concern regarding China's country-wide ban on pork products from Poland due to the outbreak of African swine fever (ASF) in early 2014. The European Union recalled that China had indicated that its measures were science-based and that its laws and regulations prohibited the imports of relevant animals and animal products from countries where African swine fever was present, and that China would evaluate further the measures taken by the European Union. The European Union noted that the ban imposed by China was not in line with the SPS principle of regionalization and the OIE concept of disease-free zones, as confirmed by the Panel Report in Russian Federation – Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union (DS475) and earlier by the panel on India – Measures Concerning the Importation of Certain Agricultural Products (DS430). The European Union urged China to provide information on its procedures and its anticipated timeline to recognize regionalization. The European Union observed China's lack of transparency and that its country-wide ban was not supported by scientific justification. The European Union requested China to provide a risk assessment and to respect its obligations under the SPS Agreement (namely Articles 3, 5, 6 and 8 and Annex C).

3.34. The European Union highlighted the adoption by the Dispute Settlement Body of the Panel Report, as amended by the Appellate Body Report, on Russia – Pigs (EU) (DS475), in which the European-wide and Poland-wide bans on those products were found to be WTO-inconsistent for not being based on international standards, nor on a risk assessment and for failure to adapt SPS measures to the disease-free characteristics of some regions. The European Union welcomed the establishment of a Working Group between China and Poland to discuss the matter and urged China to allow trade of all safe products from disease-free zones without further delay.

3.35. China noted that before the ASF outbreaks, the trade of pig and pig products between China and the European Union had been smooth, and that the bans it imposed on infected Members were based on science and safety considerations. China stated that it attached great importance to the issue and respected its international obligations and that its measure was non-discriminatory and consistent with the SPS Agreement. China reminded Members that it was the largest pig producer in the world and could be subject to great losses if the disease were to enter the country, and that the ban had been imposed in line with relevant Chinese laws and regulations. China found it necessary to conduct a further evaluation of the measures taken by the European Union. China highlighted the 47 ASF outbreaks reported by the OIE in Poland in 2017, and while China noted the measures applied by Poland, it remained cautious on whether the inspection range, sampling distribution and wild boars-catching area could control the disease. China encouraged the European Union to pursue cooperation within the bilateral technical setting in order to further strengthen information exchange.

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

3.36. The European Union stressed the importance of recognition by trading partners of regionalization measures and reiterated its concern regarding Korea's import restrictions on pork and pork products due to ASF, despite several bilateral meetings. The European Union recalled that Korea had performed a preliminary risk-assessment and on-site inspection in Poland in 2014, followed by the decision in 2015 to perform a risk assessment. The risk assessment had been suspended in August 2016 following ASF outbreaks in Poland. The European Union requested that

the risk assessment be pursued, as it had adapted its regionalization measures based on OIE standards to ensure that only safe pork products were placed on the EU market and exported to countries outside the European Union. The European Union insisted that it had provided Korea with the necessary information to demonstrate the existence of disease-free areas in Poland. The European Union therefore urged Korea to respect its obligations under the SPS Agreement and promptly conclude the import approval procedure based solely on collected information necessary to complete the recognition of regionalisation.

3.37. Referring again to the dispute *Russia – Pigs (EU)* (DS475), the European Union highlighted that the Panel had found that the bans in place were neither based on international standards, nor on a risk assessment. Moreover, given that the European Union had demonstrated that there were regions in Poland which were disease-free and likely to remain disease-free, the Poland-wide ban and the ban on the Baltic States were found to be WTO-inconsistent.

3.38. Korea referred to previous statements by China and the Russian Federation, and reiterated the highly contagious nature of ASF and the lack of a preventive vaccine to halt its spread. Korea reported that it imported more than 300,000 tonnes of pork meat every year, approximately half of which originated from the European Union. Korea further elaborated on the regionalization requirement under Article 6.3 of the SPS Agreement and Article 15.1.3 of the OIE Terrestrial Animal Health Code, and recognised that while they were informed that there had been no new ASF outbreaks in commercial pig farms, outbreaks of ASF in wild boars had been continuously reported to the OIE as recently as March 2017 in the Polish regions of Podlaskie, Lubelskie and Mazowieckie. Korea observed that the ASF-free status had to include the ASF outbreak in wild boars, and therefore had requested Poland to redefine its ASF-free areas or zones according to OIE regulations. Korea urged the European Union to provide a clearly defined ASF-free region, having reviewed the newly affected areas. The same message had been communicated through the Korean Embassy in Poland as well as in bilateral meetings with the European Union on the margins of the SPS Committee meetings.

3.2.10 United States Seafood Import Monitoring Programme - Concerns of China (No. 415)

3.39. China raised its concern regarding the US Seafood Import Monitoring Program (SIMP), published by the National Oceanic and Atmospheric Administration (NOAA) in February 2016, which had entered into effect in January 2017 without being notified to the WTO for comments by Members. China stated that the proposed rule was inconsistent with a number of key WTO principles, such as transparency, national treatment, scientific justification and least trade-restrictiveness. China also noted that the United States' traceability requirements and catch-certification for at-risk species applied only to imported fish and fish products, and not to domestic products. Additionally, the measure was not based on science as it would apply to all imported aquatic products, regardless of risk levels and without distinction between aquaculture products and wild capture fisheries. China indicated that the regulation required more information than necessary and overlapped with other rules, including the International Trade Data System (ITDS), which increased costs and generated unnecessary market access delays. China added that the rule would do little to combat illegal fishing and urged the United States to postpone its implementation until Members' comments were sought and taken into consideration.

3.40. The Russian Federation shared China's concern regarding the US Seafood Monitoring Program, and noted that it had raised the same issue in the Council for Trade in Goods, and encouraged cooperation between interested Members. The Philippines and Ecuador registered their interest in the matter.

3.41. The United States stated that the issue did not fall under the scope of the SPS Agreement. The objective of the proposed rule was to combat IUU fishing and seafood fraud. The proposed rule would require importers to report certain information upon entry into the United States, to help trace back the shipment to the catch or harvest point, in order to prevent the United States market from being used as a place to sell fraudulently marketed seafood or seafood products produced from IUU fishing. The rule was explained to be part of a new, comprehensive seafood-traceability program that also included comparable information requirements for domestic fisheries. The United States further explained that the rule had been developed through a transparent process of public notice and comments involving domestic and foreign stakeholders, as well as exporting authorities. The United States underlined the rule's one-year implementation

time-frame, its streamlined requirements for small scale fishers, and an indefinite suspension of requirements for shrimp and abalone. The United States looked forward to a continuing engagement with China and other trading partners on the implementation of the rule, and on combatting IUU fishing and protecting oceans more broadly.

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

3.42. The United States again raised its concern with the approval delay for products of agricultural biotechnology and the lack of transparency and predictability in China's agricultural biotechnology regulatory process. The United States expressed appreciation for the high level bilateral engagement on these issues with China, but regretted that after the revision of its regulation some uncertainty remained with regards to whether and how the revisions would translate into shorter and more predictable timelines for biotech approval. The United States also noted that some products were still poised for final adoption, and stressed the importance of ongoing communication with the products' applicants. The United States encouraged China to take action on those pending products in a timely manner. Finally, the United States appreciated China's engagement and commitment to support beneficial trade in the products of agricultural biotechnology.

3.43. China stated that it attached great importance to safety management of agricultural GMOs, and that its GMO safety management had always been based on internationally recognized risk analysis principles and scientific information. China recalled that it had notified to the WTO its draft amendment to the implementation regulations on safety assessment of agricultural GMOs, and had reflected WTO Members' comments in the final rule. China reported that the implementation regulations on safety assessment of agricultural GMOs had entered into force on 1 October 2016. That amendment would make the GMO safety assessment procedures more streamlined, transparent and science-based. With regards to the assessment process, China informed the United States that the reason why eight applications had not been approved was that they had failed to pass the assessment of China's Safety Committee for Agricultural GMOs - the detailed reasons had been notified to the applicants in writing. China had asked the United States to continue to provide additional necessary information to allow completion of their approval procedures, and that its experts were currently conducting assessments based on the supplementary information received. China invited the United States to make use of bilateral mechanisms to further discuss the issue.

3.2.12 China's lack of transparency for certain SPS measures – Concerns of the United States (No. 184)

3.44. The United States reiterated its concern with China's lack of transparency for certain SPS measures. The United States expressed a particular concern with the lack of notification of China's measures related to the implementation of its 2015 Food Safety Law. Further, the United States underlined China's State Council publication on 19 October 2016 of the Revised Draft Implementing Rules for the 2015 Food Safety Law as well as the Chinese General Administration of Quality, Supervision, Inspection and Quarantine (AQSIQ) letter dated 25 April 2016, addressed to the United States embassy and other Diplomatic Missions in Beijing, regarding the new requirement for official certification of all food exported to China, with an attestation that the imported food meets Chinese laws, regulations, and standards, also known as "Announcement #327". The United States noted that this would be inconsistent with relevant Codex guidance, and would be a matter of concern under the SPS Agreement. The United States requested that China delay the envisaged enforcement date of October 2017 of the new certificate requirement for imported foods, until the concerns of trading partners had been addressed.

3.45. The United States urged China to notify both the Revised Draft Implementing Rules and the AQSIQ certificate requirement to the WTO, and take its trading partners' comments into account before finalizing the measures. The United States asked that China notify all SPS measures that would have an impact on trade, including newly proposed and future measures that it would develop to implement the 2015 Food Safety Law. The United States expressed appreciation to China for the substantive bilateral dialogue, and looked forward to further cooperation with China to improve food safety in a transparent manner that was science-based and least-trade restrictive.

3.46. The European Union echoed the concerns regarding the notification of the new legislation development in China.

3.47. Japan shared the concern raised by the United States and the European Union, and insisted on the need for more information on such a requirement for new official certificates.

3.48. China responded that the Chinese government took transparency seriously, fulfilling its obligations under the SPS Agreement. China was among Members who had notified the largest number of SPS measures, and was the Member who had most frequently provided a 60-day comment period. Over the past three years, from 2014 to 2016, China had notified a total of 419 regular SPS measures to the WTO, providing the 60-day comment period for all the notified measures. With specific reference to the two food safety measures flagged by the United States, the European Union and Japan, China reported to the Committee that the competent authority of China had already extensively consulted with the relevant stakeholders, including with those from the United States, the European Union and Japan, and had reflected a number of comments in the revised rules. China commended the active effort of the United States, the European Union and Japan in providing comments in the public consultation process. China reported that it would soon notify the food imports certificate requirements, and that the draft Implementing Rules of the Food Safety Law had been placed on the 2017 legislative agenda of the State Council of China, with ongoing consultations.

3.49. China highlighted that transparency was an important obligation shared by all WTO Members. China commented on the lack of transparency by the United States. Referring to data from the WTO SPS Information Management System (SPS IMS), it noted that the United States had submitted 110 regular SPS notifications from 2014 to 2016, among which only 11 provided for a 60-day comment period. China further noted that a large number of the measures were notified as trade-facilitating, often unjustifiably, and did not provide any comment period. China added as a systemic issue that the United States did not notify the acts enacted by its Congress, for example the US Food Safety Modernization Act, and seldom notified sub-federal laws or state regulations. Finally, China encouraged more discussions with the relevant Members with a view to further improving transparency in the SPS area.

3.3 Information on resolution of issues in G/SPS/GEN/204/Rev.17

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

4 OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT

4.1 Equivalence

4.1.1 Madagascar – South Africa's recognition of phytosanitary measures for lychee imports

4.1. Madagascar announced that the South African Plant Protection Organization had recognized in December 2016 all phytosanitary measures taken by the Madagascar Plant Protection Organization as being equivalent. Madagascar acknowledged that the effort to bring its measures into conformity had improved the access of Malagasy fresh lychees to the South African market. Madagascar explained that it had used a monitoring device for the fruit flies *Bactrocera dorsalis* and *Ceratitis malgasa*. That initiative had been supported by the COMESA Secretariat in the context of the programme for the development of the tripartite market between COMESA, SADC and the EAC. Madagascar expressed its appreciation to all the bodies that had supported its process, particularly the Secretariat of COMESA and other bodies that had provided information as well as the WTO Secretariat for the technical assistance granted to Madagascar in 2016 which had provided another opportunity to foster collaboration with the private sector.

4.2 Pest- and disease-free areas

4.2.1 Turkey – New regulation on zones free from notifiable avian influenza

4.2. Turkey announced that the Directive on the Definition and Declaration of Zones Free from Notifiable Avian Influenza Disease had been enacted on 16 December 2016, in line with the

provisions of the OIE Terrestrial Animal Health Code. Turkey explained that in August 2015 the OIE had notified Turkey as free of Avian Influenza, and according to their 2015-2016 survey, it had remained so. Turkey added that, following OIE rules and the migration periods of wild birds, it would have bi-annual surveys and a yearly passive survey. In addition, disease-free zones would be updated as required, and routinely at the beginning of each year. Finally, Turkey reported that detailed information on the new Directive and disease-free zones was available in notification G/SPS/N/TUR/82.

4.2.2 Turkey - Declaration of freedom from *Xylella fastidiosa*

4.3. Turkey announced that in October 2016, the IPPC web page had published an official declaration that Turkey was free from *Xylella fastidiosa*. Turkey therefore requested Members to update their relevant legislation on that issue.

4.2.3 Senegal – Information on Spodoptera frugiperda

4.4. Senegal reported on the emerging sanitary situation related to the armyworm Spodoptera frugiperda, its risk of propagation and its threat to maize crops. Senegal invited international cooperation for the surveillance, phytosanitary control and evaluation of the progression of the invasion of the armyworm, as well as for information campaigns aimed at the general public. Senegal reported that it maintained its pest-free status, especially for sweet corn (its main export). Finally, Senegal assured its trading partners that no trace of the armyworm had been detected in its territory, that it was closely surveying the situation and would inform of any change.

4.2.4 Madagascar – Information on pest and disease-free areas

4.5. Madagascar provided information on the actions it had taken since 2016 to protect its territory from the introduction of FMD, after it appeared in neighbouring Mauritius and Rodrigues, which had been notified to the WTO as emergency measures. Madagascar elaborated that, alongside the strengthening of border control measures, the surveillance methods in the field had been stepped up for three diseases absent from the territory, FMD, rinderpest and contagious bovine pneumonia; as well as border protection from the rapid propagation of Tuta absoluta. Madagascar explained that, following the FAO information on the appearance of army worms in corn crops in South Africa and in other countries members of SADC in January and February 2017, it had strengthened its surveillance mechanisms given the importance of its tomato production and the high level of risk of this scourge entering its territory.

4.2.5 European Union – Regionalization

4.6. During the informal meeting, the European Union had expressed its interest in having an informal discussion on regionalisation. The European Union underlined the importance of the SPS Agreement provision on regionalization for international trade in animal and plant products, as highlighted by the Committee's agenda items. The European Union considered that an informal discussion could facilitate a better understanding of the challenges faced in the application of regionalization principles in international trade, and could thus contribute to the implementation of the SPS Agreement. The European Union suggested discussing the topic at the informal meeting scheduled for July, and inviting the OIE, IPPC and Members to share their views and experiences. The European Union offered to circulate a paper on the topic and welcomed Members' comments.

4.7. The United States welcomed the interest of the European Union in an informal discussion on regionalization, which was a topic of interest to the United States. The United States looked forward to a paper from the European Union, with more information on the scope, the goals and the elements envisaged for the discussion, in order to provide Members an opportunity to identify their particular interests and fully participate in the discussion. The United States also welcomed the use of informal settings to delve deeper into issues of mutual interest to Committee Members, as a means to promote a shared understanding. Recognising this as a new exercise, the United States encouraged a discussion on the best use of the informal setting and invited Members and the Secretariat to seek the means to best take informal setting discussions to a formal setting, together with more standardized procedures.

4.8. Chile supported the call by the European Union, and proposed including the issue in the agenda of an informal Committee meeting as well as in a workshop. Chile added that it would be interested to collect information on the implementation of the Committee guidelines on regionalization contained in document G/SPS/48.

4.9. The Russian Federation, Brazil, Canada, Egypt and Japan registered their interest in the matter and looked forward to the European Union's paper and a potential informal discussion on the matter.

4.10. The OIE took the floor to welcome the European Union's suggestion and expressed its willingness to participate in the discussion.

4.11. The Chairperson concluded that there was support among Members to discuss regionalization at a July informal meeting, preceded by the circulation of a background paper by the European Union on the issue. Based on that document and inputs from other Members, the Secretariat would organize the informal meeting accordingly.

4.2.6 Chile – Avian influenza

4.12. Chile provided an update on the AI outbreak that had occurred towards the end of 2016, which Chile had notified to the OIE and its trading partners, while it was yet unknown whether the strain was of low or high pathogenicity. Chile reported that the affected animals had been slaughtered (350 turkeys), that surveillance and biosafety measures had been heightened; and the movement of animals and certification for the affected area was suspended. Chile had updated its notification once it received laboratory results, confirming that the outbreak had been of low pathogenicity of the type H7, and stressed that this had been a minor problem, circumscribed to only one production plant.

4.13. Chile welcomed the fact that trade with its main trading partners, namely the European Union, the United States, Korea, China and Colombia, had not been affected, since they had not imposed trade restrictions beyond the affected areas. Chile understood the precautionary measures taken by Members (which Chile had also taken), but noted that some Members maintained precautionary measures despite the lack of problems. Chile noted that there had also been cases of erroneous notifications which had been corrected once Chile had communicated the low pathogenicity of its AI outbreak, with for instance Peru revising its notification. In the case of Ecuador, Chile observed that document G/SPS/N/ECU/187 notified the AI as of high pathogenicity, and that despite Chile's requests, Ecuador had not revised its notification. Chile expressed its concerns regarding the trade effects of that notification. Finally, Chile invited Members to visit its plants and ensured them of the low pathogenicity of its AI outbreak and of its presence in a limited area of Chile.

4.2.7 Chile – Recognition of freedom from fruit fly by Viet Nam

4.14. Chile announced that in 2016 Viet Nam had recognised Chile as a country free of fruit fly or Mediterranean fly (which had been eliminated in the country since 1995). Chile appreciated that this had allowed the entry of Chilean table grapes into the Vietnamese market.

4.3 Operation of transparency provisions

4.3.1 Update on the ePing alert system and on the modernization of the SPS IMS and NSS

4.15. The Secretariat presented the ePing SPS/TBT notifications alert system and provided the Committee with a brief update on the ongoing IT project aimed to modernize available SPS tools.

4.16. On the ePing SPS/TBT notifications alert system, the Secretariat recalled that since the 2015 October Transparency Workshop, updates had been provided on the ePing project for accessing SPS & TBT notifications and alerts. As planned, ePing had been officially launched in November 2016, the result of a tripartite cooperation between the UN Department of Economic and Social Affairs (UNDESA), the WTO and the International Trade Centre (ITC). UNDESA had built the pilot version of ePing as part of a trade capacity building project for least developed countries.

The WTO managed the depository of the SPS and TBT notifications and ITC brought significant experience in developing and maintaining online trade-related tools, targeted mainly at SMEs, and hosted the IT infrastructure and development. The tripartite cooperation had been formalized through a memorandum of understanding, signed by the heads of the three organizations.

4.17. On the modernization of the SPS platforms, the Secretariat recalled that the project had been launched in early 2015. In a first phase, the SPS NSS had been developed and tested by a group of Members. During the 2015 October Transparency Workshop, participants had the opportunity to use a pilot version of the new SPS NSS system in a hands-on exercise (in three language groups). The second phase on enhancements to the SPS IMS had continued during 2016. In March and July 2016, the Secretariat had informed the Committee on the advancement of this second phase, which included the interoperability of the IMS and NSS applications. During the last meeting in October, the Secretariat had updated the Committee on final testing efforts and possible launch of the platforms. The Secretariat informed the Committee that the launch of the new platforms was expected on 31 March. This meant that the current online notification submission system (SPS NSS) would be accessible until 28 March cob, Geneva time. Between 28 and 31 March Members would be able to notify offline by submitting notifications as attachments to emails sent to the Central Registry of Notifications (CRN). The Secretariat looked forward to having the new SPS IMS and NSS accessible on 31 March. The Secretariat also noted that further improvements and fine-tuning would continue, and requested the understanding of Members as unexpected issues or bugs could be encountered, which would be fixed as they occurred. The Secretariat further requested Members' feedback during the first months of operation. Some features would also need to be finalized (such as the help menu, translation of the interfaces into French and Spanish, general design and aesthetics aspects). When using the NSS for the first time, the Secretariat invited NNAs to first submit one or two notifications and wait for feedback.

4.18. The Secretariat reported that it would soon start the update of the step-by-step procedural manual, and thanked New Zealand's collaboration with this project. Indeed, Sally Jennings, who had developed the current version, had confirmed her availability to update the manual.

4.19. The Secretariat also expressed its appreciation to the Members who participated in the pilot testing of the new systems, namely: Brazil, Canada, Chile, China, the European Union, Hong Kong China, Republic of Korea, New Zealand, the Philippines, the Russian Federation, South Africa, Trinidad and Tobago, Ukraine and the United States. Finally, the Secretariat thanked the WTO ITSD for their support and efforts with this important project (Imed M'tmet, Oliver Murillo and Edward Carandang).

4.20. Nigeria expressed its appreciation to the Secretariat for the innovative and useful system. Nigeria suggested that the ePing alarm system could include an indication when there was a specific deadline for comments and when there wasn't, as well as providing feedback on the frequency of the use of the system. In addition, Nigeria encouraged capacity building among stakeholders and capitals, to enable the effective participation of users.

4.3.2 Report of the Informal Meeting

4.3.2.1 Report of the Thematic Session on Notification of Trade-Facilitating Measures

4.21. The Chairperson invited the Secretariat to present a short, factual report on the discussions at the informal meeting on 21 March 2017.

4.22. The Secretariat reported that at the informal meeting, discussions had focused on two of the proposals from the joint submission by Chile and the European Union (G/SPS/W/290), which had addressed three main areas: posting unofficial translations of notified regulations in the WTO website; facilitating access to information about SPS measures that were in force, for example by setting up an internet platform with links to websites where Members would publish their SPS measures; and the third proposal was to hold a session on trade-facilitating measures, which had taken place on 22 March 2017.

4.23. With regards to the proposal to develop an internet platform to facilitate access to SPS measures in force, the Secretariat reported that the European Union recalled that in October

certain Members had suggested that there might be synergies to explore with transparency obligations under the Trade Facilitation Agreement (TFA); and had proposed to have a brief presentation on such transparency obligations by the Secretariat before continuing discussions on how to move forward with the proposal.

4.24. The Secretariat also reported that Ms Sheri Rosenow from the Trade Facilitation team in the WTO's Market Access Division had explained the TFA's publication, advance ruling and notification requirements, as contained in articles 1 to 3 and Section II of the TFA. Ms Sheri Rosenow also briefly explained the newly developed TFA Facility Database to manage contact information, country profiles and more. She also explained that the TFA would apply to all border agencies, including those in charge of SPS and TBT matters.

4.25. The Secretariat noted that, in order to better assess the relationship between the two agreements, and in light of the recent entry into force of the TFA, some Members had suggested that the Secretariat could update the background note on the link between the two agreements (RD/SPS/3/Rev.1), which had been circulated in 2014, but that one Member indicated that it would need more time to discuss the linkages internally first.

4.26. The Secretariat then indicated that the European Union had reported on the proposal to post unofficial translations of notified regulations on the WTO website, and had recalled that in October 2016 Members had raised complex issues related to the accuracy of translations, liability, formality, restricted access and anonymity. The Secretariat added that, before moving ahead with the development of a new platform, the European Union and Chile had felt the need to have further discussions on the reasons why the current procedure to share notifications through the submission of supplements to original notifications was not more frequently used; and the European Union had also referred to the new ePing SPS/TBT notification alert system as a possible alternative.

4.27. The Secretariat briefly described the current mechanism for sharing unofficial translations. According to paragraph 28 of the Recommended Transparency Procedures (G/SPS/7/Rev.3), any Member possessing an unofficial translation should inform the notifying Member of its existence and submit it to the Secretariat through a supplement to the original notification. Neither the Secretariat nor the Member providing the unofficial translation could be held responsible for the accuracy or quality of these translations. The Secretariat observed that this mechanism had rarely been used; only 19 supplements had been submitted since 2004. The Secretariat illustrated different options used to share translations through these supplements, including one option which allowed for anonymity.

4.28. The Secretariat reported that Ms Lotte Drieghe from the TBT team, of the Trade and Development Division, briefly presented the ePing online SPS and TBT notification alert tool. She recalled that the system, resulting from the cooperation between the UNDESA, the WTO and ITC was operational since November 2016. She further explained the system's file sharing option, which could be used for sharing unofficial translations by adding them to a notification.

4.29. The Secretariat explained that many Members had recognized the usefulness of sharing translations, in particular for developing countries with limited resources, while they had also expressed divergent views on some of the issues mentioned at the beginning of the discussion, such as preserving anonymity, ensuring the accuracy of translations, and on the desirability of using existing resources versus developing a new platform. Overall, Members had indicated the need for more time to assess the proposal, while reiterating their interest in continuing the discussions.

4.30. Nigeria requested clarification on the possible update of the background paper by the Secretariat on the linkages between the TFA and the SPS Agreement. The Secretariat responded that one Member had indicated that it needed more time to discuss the linkages internally. The Chairperson concluded that there was no consensus on updating the background paper.

4.31. The European Union reported on the thematic session on the notification of trade-facilitating SPS measures that had been held on 22 March 2017, as agreed by the SPS Committee in October 2016, based on a joint proposal submitted by the European Union and Chile. The purpose of the session had been to provide an opportunity for Members to share experiences on how

trade-facilitating measures were identified in the notification process. The session had been moderated by Gonzalo Ríos from Chile and Carlos Alvarez Antolinez from the European Union.

4.32. The European Union explained that the Secretariat first provided an overview of the notification obligations in the SPS Agreement, specifically Article 7 and paragraphs 5b and 5d of Annex B, and explained the current recommendations according to paragraph 13 of G/SPS/7/Rev.3, which encouraged Members to allow a 60-day comment period, except for proposed measures which facilitate trade and those which are substantially the same as an international standard. Specific examples of trade facilitating measures were also presented, as contained in footnote 5 of G/SPS/7/Rev.3.

4.33. The Secretariat had recalled that the majority of Members responded affirmatively to the element of the 2015 transparency questionnaire (G/SPS/GEN/1402) which asked whether more guidance was needed to further define "trade facilitating measures". The Secretariat had also provided an overview of some key issues identified by Members in the group discussions held during the October 2015 Transparency Workshop, as well as some of the proposed solutions. The Secretariat had concluded its presentation by providing some statistics on the use of the trade facilitating measures (TFMs) box in notifications submitted by Members.

4.34. On the sharing of national experiences, the European Union, in its role as moderator, had reminded Members of the objective of the session and noted it would have hoped that more Members had come forward to share their experiences.

4.35. Carlos Alvarez Antolinez from the European Union had presented on the practices of the European Union on the notification of trade-facilitating SPS measures. The European Union had provided an overview of its notifications for the period 2010-2016, highlighting that of the 218 notifications submitted during this period, 60 related to trade facilitating measures (TFMs), with most measures frequently covering feed additives and animal health. Data were also presented showing the conformity status of its notified trade facilitating measures with international standards (57% of TFMs in conformity), as well as data on the comment period provided. In 85% of the cases, a period of 60 days or more had been provided.

4.36. An explanation had been provided on the European Union's internal procedure for submitting notifications and concerns were also highlighted about the potential differences in the interpretation of trade facilitating measures, based on the statistics presented which showed the high TFM rate by some Members. Several questions/challenges of importance to the issue of trade facilitating measures had been outlined, such as: how to classify measures where there had been no prior regulation; how to address the issue of regulations with mixed content, where some aspects may be trade facilitating, but others trade restricting; or the issue of less stringent measures, which were still stricter than international standards.

4.37. Several European Union conclusions had also been highlighted, such as the need for a case-by-case approach to trade facilitating measures; the importance of determining whether market access was facilitated, as a criterion for classifying a measure; and more careful consideration of notifications by the NNA.

4.38. Comments from Members on the presentation had highlighted the importance of transparency both within the context of the SPS Agreement, as well as the Trade Facilitation Agreement (TFA). One specific observation had been made that additional work needed to be undertaken with respect to MRLs for minor use crops, in order to facilitate trade to certain markets.

4.39. Gonzalo Ríos from Chile had presented on Chile's experience on transparency and trade-facilitating SPS measures. Chile had provided the historical background and context for the inclusion of several recommendations in G/SPS/7/Rev.3: the 60-day comment period; the encouragement to notify all SPS measures, even if identical to the international standard; and notification of trade facilitating measures. Chile had acknowledged that since 2008, the number of notifications of trade facilitating measures had significantly increased, reaching a peak in 2014. On the other hand, a study undertaken by Chile had shown that only nine Members accounted for 83% of TFM notifications (including Chile). It had also recognized that those Members were among the main notifiers.

4.40. Chile had outlined the problems that it faced with trade facilitating measures both from an importer's and exporter's perspective, and further highlighted that TFMs under the SPS Agreement had no relation to the TFA. Transparency obligations under the SPS Agreement were different to those under the TFA.

4.41. Lastly, Chile had provided some suggestions on moving forward, including: requesting the Member to justify why the measure was trade-facilitating and accordingly adjusting the notification format; providing a shorter period for comments, but not eliminating this comment period; and renaming trade facilitating measures, in order to avoid confusion with the TFA.

4.42. Julia Doherty from the United States had presented on the US experience with trade-facilitating measures in notifications. The United States had provided an interesting perspective on the historical background regarding the TFM box by noting the concern had been raised in 2008 during the discussions of the third revision of G/SPS/7 that the application of the TFM box might give rise to misunderstandings if it was not made clear what was meant by a "trade facilitating" measure and its scope was not clearly defined. The United States had also reported on the results of an internal review of its notification procedures, which confirmed the United States as the most frequent user of trade facilitating measures, and which had shown that US agencies had used the TFM box consistently with footnote 5 of G/SPS/7/Rev.3. The United States further highlighted that the requirement to provide comment periods was dictated by its administrative procedure law.

4.43. The review had also included an examination of other Members' notifications designated as trade facilitating and had shown that measures which might appear trade facilitating from one Member's perspective, might not be considered so by another Member. The valuable nature of comments in those cases had been underscored. The review had also confirmed that there were wide divergence across Members on the use of TFM notifications, and had been unable to identify specific benefits associated with checking this designation on the notification.

4.44. The United States had further recognized the difficulty for the Committee to agree on criteria with the degree of precision and clarity that could support more uniformity in the use of the TFM box. It had suggested that it could be in a position to support the suspension or restriction on the use of TFMs, unless the Committee was able to develop and agree on criteria that were fully understood and practical for all Members. Finally, the United States had expressed its interest in hearing the experiences of other Members, where they had developed and implemented clear criteria for their own use that could be used as the basis of further discussion in the Committee.

4.45. Canada had shared information on its own notification practices, highlighting that it had used trade facilitating measures infrequently. Canada had further explained that its domestic requirements obligated Canada to notify and allow for a 75-day comment period. In the few cases where Canada had notified a trade facilitating measure, it had been guided by the transparency recommendations.

4.46. Canada had further noted that there could be confusion in classifying a measure and that some of the reflections of the European Union and Chile may be beneficial on a case-by-case basis. Canada had shared the views of the United States on the usefulness of receiving comments in finalizing a regulation.

4.47. In the concluding discussion, the moderators had invited Members to share their views on the use of trade facilitating measures and had welcomed further discussion on this issue. In this regard, concerns had been raised in relation to how Members should deal with a trade facilitating measure that was country-specific, for example, a pest risk analysis. It had further been noted that it would be useful to have an indication of the type of measures to be classified as trade facilitating. The suggestion had also been made for Members to undertake in-depth analyses, similar to those presented.

4.48. In conclusion, the European Union had highlighted that the intention of the session had not been to formulate or agree on precise proposals to be adopted, but to allow for further reflection and perhaps revisiting some of the ideas at a later stage, such as possibly within the context of the October 2017 Transparency Workshop. Chile had recalled that 80% of questionnaire respondents had indicated the need for further guidance on trade facilitating measures.

4.49. Nigeria expressed its appreciation to the speakers and supported further reflection on this matter at the Transparency Workshop scheduled for October 2017, particularly on what constituted trade facilitating measures.

4.3.3 Transparency Proposal by Chile and the European Union (G/SPS/W/290)

4.50. The European Union noted the useful discussion that had taken place on the issue at the informal meeting, and thanked the Secretariat and Members for their contributions. The European Union suggested continuing discussions at the October Transparency Workshop.

4.51. The United States suggested that the Secretariat put in place a process and a timeline for contributions from Members and collaboration on the areas of coverage of the Transparency Workshop.

4.52. The Secretariat explained that the Committee had considered that transparency was considered a useful subject for the October workshop because of the possibility to fund the participation of a number of officials from Enquiry Points and Notification Authorities. Given that the new SPS IMS and NSS would be available then, participants would have hands-on training sessions on how to submit notifications online, and Enquiry Points would learn about the use of the ePing tool as a national discussion forum. The Secretariat welcomed suggestions of particular topics of interest for other sessions, and proposed the deadline of 31 May 2017, in order to prepare a draft programme that could be discussed at the July Committee meeting.

4.53. Chile welcomed the opportunity to comment on topics to be covered in the transparency workshop and stressed the relevance of having Notification Authorities participate in the discussions, given that they were the ones faced with challenges of translations, of assessing whether a measure was trade facilitating or not, or how to learn about other countries' measures.

4.4 Special and Differential Treatment

4.54. Nigeria highlighted the importance of the implementation and enforcement of provisions on special and differential treatment in the SPS Agreement, for Africa in general and Nigeria in particular. Nigeria argued that they were placed at a disadvantage and imbalance because those provisions were not fully enforced, and therefore called for their enforcement.

4.55. Madagascar noted the concerns expressed by Members on new regulatory provisions taken by the European Union as well as measures in force on pesticides with endocrine disruptor effects. In view of the complexity of these measures and their impact on its economy, Madagascar requested that the European Union, as a privileged partner, take into consideration the situation of Madagascar in the application of those measures. Pursuant to Articles 9 and 10 of the SPS Agreement, Madagascar requested special and differential treatment together with technical assistance to enable it to set up, at a national level, the necessary measures to bring the country in line with the regulation, including a plan towards the progressive withdrawal of pesticides which would be banned.

4.5 Monitoring of the use of International Standards

4.5.1 New issues

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

4.5.2 Issues previously raised

4.5.2.1 Argentina – Use of the Codex International Standard on Glyphosate

4.57. Argentina reiterated its concern that some Members were considering the possibility of rescinding the use of glyphosate and thereby no longer apply the Codex MRL. In particular, Argentina noted that although the European Commission had approved the extension of the authorization for glyphosate use until the end of 2017, there still remained concerns regarding the immediate impact on trade of agricultural products if the authorization was not further renewed. Argentina highlighted the JMPR report from May 2016 that had concluded that glyphosate was

"unlikely to be genotoxic" and "unlikely to pose a carcinogenic risk to humans from exposure through diet". A recent European Chemical Agency (ECHA) publication, dated 15 March 2017, had also concluded that the available scientific evidence did not meet the criteria to classify glyphosate as being carcinogenic, mutagenic or toxic for reproduction. Argentina noted that the ECHA conclusion was in accordance with previous statements from the European Food Safety Authority (EFSA). Argentina recalled the obligations of Article 3 of the SPS Agreement, highlighting that Members had the obligation to base their food safety measures on Codex standards or on scientific evidence. No scientific evidence had been provided by the European Union to justify deviation from the Codex standard. Argentina urged the European Commission to take into account the Codex standard, the EFSA opinion and the ECHA risk assessment in its next decision on the renewal of the authorization of glyphosate use.

4.58. The United States reiterated its concerns over the fact that some Members had already taken action, or were considering taking action, to no longer apply the Codex MRL for glyphosate. The United States understood that the measures being considered did not appear to be based on international standards or on a risk of exposure. Multiple robust risk assessments had been undertaken by international and national authorities (e.g. JMPR, EFSA, ECHA) on glyphosate, none of which had found convincing evidence regarding a carcinogenic risk to humans. In addition, glyphosate was subject to a periodic registration review by the US Environmental Protection Agency (EPA), in order to ensure that pesticides containing glyphosate continued to meet the statutory safety standard for registration. The United States further informed that in 2016 the EPA had published a review of all available data on the potential carcinogenicity of glyphosate, where it had proposed to classify glyphosate as "not likely to be carcinogenic to humans at doses relevant for human health risk assessment". This review had included, but also extended beyond, the studies reviewed by WHO and the International Agency for Research and Cancer (IARC) which had assigned a classification of "probable human carcinogen" to glyphosate. The EPA review had been evaluated by an independent scientific advisory panel, which had released its report in March 2017. The EPA was now currently reviewing the panel's report, and other comments, before making a final determination on the potential carcinogenicity of glyphosate. Draft human health and ecological risk assessments on glyphosate were also scheduled to be published later in 2017, for public comments. The United States underscored the importance of distinguishing between the assessments conducted by JMPR, EFSA, ECHA and the pending EPA risk assessment, from the report of IARC, which was based on an assessment of hazard only and not on risk. The United States further encouraged all Members to follow Codex glyphosate MRLs or to base SPS measures on science-driven risk assessments that incorporate realistic exposure scenarios.

4.59. Australia, Brazil, Canada, Chile and New Zealand echoed the concerns of Argentina and stressed the importance of following the Codex standard. The findings of the JMPR report of May 2016 were also noted and Members encouraged to take into account the guidance provided by JMPR and CCPR when developing, applying, re-evaluating or reauthorizing measures.

4.60. The WHO, on behalf of WHO and JMPR, confirmed the JMPR conclusions on glyphosate as outlined in the JMPR report of May 2016, and indicated that the process to review glyphosate was ongoing. The WHO further explained that JMPR would report to the CCPR in April 2017, and would not request a change in the MRLs for glyphosate.

4.5.2.2 Senegal – Application of ISPM 13 on notifications of non-compliance

4.61. Senegal raised concerns regarding the provisions contained in ISPM 13 on notifications of non-compliance, noting that non-conformity in relation to emergency actions was not well documented by Members. Senegal observed that in some cases, products that were judged to be in conformity by the relevant authority were then destroyed without the relevant exporting authority being informed. Senegal indicated that this breached the guidelines outlined in ISPM 13, which required the importing party to deliver a range of documentation, in the event of destruction, to the relevant competent authority. Senegal emphasized the importance of providing this information to the exporting country through the official channels, in order to ensure reliable flows of information and to maintain trust between authorities.

4.62. Burkina Faso and Seychelles supported Senegal's concern. In particular, Burkina Faso highlighted its similar experience in receiving late notifications of non-compliance from Enquiry Points and in some cases not being informed.

4.5.2.3 United States – BSE restrictions not consistent with the OIE International Standard

4.63. The United States reiterated its concerns that some Members maintained unjustified BSE restrictions that were inconsistent with the OIE international standards. The United States reiterated its commitment to aligning its import regulations governing BSE OIE guidelines and further recalled that at the October 2016 Committee meeting, it had announced that the USDA's Animal and Plant Health Inspection Service (APHIS) had published a Notice in the Federal Register that finalized the recognition of the OIE's BSE negligible risk designations for 14 countries. The United States indicated that APHIS had published another Notice in the Federal Register on 23 January 2017, which indicated the preliminary concurrence with the OIE's risk designation for seven countries (Costa Rica, Germany, Lithuania, Mexico, Namibia, Romania and Spain) as negligible risk for BSE, and solicited comments on this proposed action by 24 March 2017. The United States noted that it was also recognized as negligible risk for BSE by the OIE, yet faced numerous unjustified restrictions on certain meat exports. The United States reminded Members that certain products such as protein-free tallow and blood products were deemed safe by the OIE regardless of a country's BSE risk status and thus should not be subject to BSE-related import restrictions.

4.5.2.4 United States - Phytosanitary certificate requirements for processed food products

4.64. The United States reiterated its concerns, previously raised in the March and July 2016 Committee meetings, regarding Members' use of phytosanitary certificate requirements for processed products, as set out in ISPM 32 on 'Categorization of Commodities according to their Pest Risk'. The United States recalled that it had outlined the key provisions of the standard and highlighted the category of commodities defined as having been processed to the point where they did not remain capable of being infested with quarantine pests. The United States explained that in such cases, no phytosanitary measures should be required, and that such a commodity should not be deemed to require phytosanitary certification. The United States noted an increasing trend, where Members continued to require phytosanitary certifications for products sufficiently processed to mitigate any pest risk (e.g. dehydrated potatoes, frozen blueberries). The United States urged Members to follow the international standards, as set out in ISPM 32, in order to facilitate safe trade in plant products.

4.65. Canada shared the concerns of the United States and encouraged Members to use international standards when establishing phytosanitary measures, and to support the principles as set out in ISPM 32. Canada highlighted that this standard encouraged Members to take into account several factors, such as the method and the level of processing of the products prior to export, and the intended use of the commodity in establishing phytosanitary requirements.

4.66. Chile supported the concerns of the United States, noting that certifications were sometimes required in bilateral trade which went beyond the necessary authorizations, creating additional burdens and infringing international standards. Australia and Mexico similarly echoed the concerns raised and encouraged Members to refer to IPPC ISPM 32 for guidance on the processed products that did not require phytosanitary certificates in trade.

4.6 Fourth Review (G/SPS/W/279/Rev.2, G/SPS/W/280/Rev.2)

4.67. The Chairperson reminded the Committee that the draft report of the Fourth Review (G/SPS/W/280/Rev.2) had been waiting to be adopted for two years. He also recalled that in March 2015, Egypt had presented three suggestions for additions to the report, contained in document G/SPS/W/282. The Committee had accepted two of these suggestions, adding a recommendation in Section 11 on the use of ad hoc consultations, and another recommendation in Section 12, on cooperation with the three sister organizations. A third recommendation, on private standards, required further work, along with other comments on the section of the Fourth Review Report on private standards. The Chairperson noted that at the October 2016 Committee meeting, the United States had orally presented a few options on how to move forward on the Fourth Review. The United States had subsequently submitted these suggestions in writing, and they had been circulated as document G/SPS/W/291. The Chairperson indicated that this proposal had been discussed at the informal meeting on Tuesday 21 March 2017.

4.6.1 Report of the informal meeting

4.68. The Chairperson invited the Secretariat to present a short, factual report on the discussions at the informal meeting on 21 March 2017.

4.69. The Secretariat reported that several Members had highlighted the usefulness of the Catalogue. Regarding the need for a disclaimer, some Members had supported inserting language to clarify the legal value of the document, or to clarify that the Catalogue was a reference document only, with no binding value. One Member had raised a systemic concern regarding the inclusion of disclaimer language, as disclaimers could differ between documents, leading to confusion in their legal interpretation. Some had highlighted that the disclaimer was not necessary, since documents adopted at the level of the SPS Committee were not legally binding and did not impose obligations on Members. The inclusion of a disclaimer would not prevent these documents from being considered in dispute settlement proceedings. Some had indicated that they were prepared to continue discussions based on language circulated by previous Chairpersons. The proponents, Canada and Kenya, had also signaled their flexibility regarding the inclusion of a disclaimer.

4.70. Regarding the Fourth Review, the United States had presented its proposal, which was intended to stimulate discussions to help find a way forward on the adoption of the Report of the Fourth Review. The proposal had presented three options. The first option was the status quo, i.e. that the adoption of the Fourth Review remain deadlocked. The second option was to ask the Secretariat to revise Section 14 on SPS-related private standards, to describe the differing views and the depth of engagement on all sides. The third option was to skip the Fourth Review and begin the Fifth, with a modified process to facilitate reaching an agreement.

4.71. Regarding the first option, several Members had considered it would ignore the important work that had been done in the Committee. On the third option, some Members had noted that continuing in such fashion did not have precedent and would not benefit the clarity of the process. Many Members had been open to discuss the second option, highlighting that only few issues remained to be resolved. Some had indicated their views on how Section 14 of the report should be modified, and what should be the fate of the first and third recommendations.

4.72. Certain Members had observed that the issue of private standards was being discussed in other fora, but some had indicated a preference for keeping it on the agenda of the SPS Committee in the hope of finding a solution.

4.73. One Member had raised the matter of defining a time-frame for the adoption of the Fourth Review, while another had preferred to have a timetable of meetings to work towards said adoption, without setting a deadline.

4.74. The Chairperson thanked the Secretariat for its factual report of the informal meeting and opened the floor for any comments.

4.75. Brazil reminded the Committee that it had raised systemic concerns on including a disclaimer in the Catalogue of Instruments. Brazil also recalled its intervention during the informal meeting, where it had read out previously circulated disclaimer language, which in its view had gathered support at the October 2016 SPS Committee. Brazil suggested the circulation of this disclaimer language for consideration by Members: *"This catalogue of instruments is intended [only] as a reference document to help Members address and manage SPS issues. It neither adds to nor detracts from the existing rights and obligations of Members under the SPS Agreement or any other WTO agreement"*. Despite its concerns expressed in previous meetings, Brazil indicated its willingness to work on the basis of this text, if acceptable to Members. On the Fourth Review, Brazil reiterated its concerns with private standards and stressed that more work was needed. Brazil thanked the United States for its proposal and confirmed its support for option 2, but further suggested to also keep the first and third bullets of paragraph 14.20, as adopted recommendations, with the understanding that they built on the work of the Third Review. Brazil indicated its willingness to engage in discussions with Members in order to reach a solution.

4.76. Canada proposed that the Secretariat recirculate the disclaimer language on the Catalogue of Instruments, in order to allow Members to reflect, with a view to moving forward during the

next meeting. Canada looked forward to engaging in a discussion on this topic. Regarding the Fourth Review, Canada expressed its appreciation for the United States' proposal and expressed its interest in working with Brazil, and other Members, to try to find a way forward specifically around the language from paragraph 14.20.

4.77. Nigeria reiterated its support for option 2 of the United States proposal and expressed its interest in working on the disclaimer text indicated by Brazil. Benin also recalled its intervention in the informal meeting, along with other African countries, where it had supported option 2, and underscored the importance of maintaining the issue of private standards on the Committee's agenda until the issue was resolved.

4.78. India recalled the Committee's previous work on the disclaimer language for the Catalogue of Instruments, highlighting the need for effective language to clarify the legal status of the document. India proposed that its previously submitted disclaimer language also be circulated, along with the language indicated by Brazil.

4.79. The United States reiterated its flexibility and its willingness to work with other Members to find a way forward on the disclaimer issue, provided that the disclaimers met certain legal criteria. On the Fourth Review, the United States expressed its appreciation for Members' engagement at the informal meeting and acknowledged the significant move towards consensus, based on option 2. The United States noted Brazil's suggestion and expressed its willingness to work with Brazil and other Members, requesting guidance from the Chairperson on the timeline for subsequent discussions, with the hope of adopting the report in July.

4.80. El Salvador indicated its continued interest in the discussions on private standards and signaled its willingness to discuss option 2 of the United States proposal.

4.81. Kenya expressed its appreciation for the constructive comments provided by Members, particularly on the Catalogue, and indicated its willingness to jointly work on common language for the disclaimer. Kenya also acknowledged the United States proposal as a good way to move forward and indicated its commitment to addressing the impasse on private standards.

4.82. Argentina invited the Secretariat to circulate the factual reports on the informal meeting for the benefit of Members that were not present. Argentina further reiterated its position that the inclusion of a disclaimer in the Catalogue of Instruments was not necessary. However, it indicated its flexibility to collaboratively find compromise language in order to move forward. Argentina expressed its appreciation for the United States proposal on the Fourth Review, noting its support for the spirit of option 2, indicating that a revised Section 14 could reflect the different positions, as well as include information on the Committee's work undertaken on private standards and areas of consensus. Argentina indicated its willingness to work with interested Members.

4.83. Chile, the European Union and Mexico reiterated their position that disclaimer language for the Catalogue of Instruments was unnecessary, but indicated their flexibility to review language proposals, in order for the document to be approved.

4.84. Chile also indicated its appreciation for the United States proposal on the Fourth Review and expressed support for option 2, while suggesting that option 3 be undertaken within the context of the Fifth Review. The European Union, Mexico, New Zealand and Norway also welcomed option 2 of the United States proposal and further expressed interest in contributing to this discussion.

4.85. The Chairperson requested the Secretariat to circulate the factual report on the informal meeting to Members through the SPS contact list, as well as a compilation of all of the previously proposed language for the legal disclaimer for the Catalogue of Instruments. Lastly, the Chairperson recalled Members' support for option 2 of the United States proposal for the Fourth Review, as well as Brazil's additional suggestion for paragraph 14.20. In this regard, he invited interested Members to consult with each other and to submit by 31 May 2017, an agreed draft text for the second recommendation of paragraph 14.20 of the Fourth Review Report. Following this, he would provide the following suggestions to the incoming Chairperson on how to move forward: (i) hold informal consultations during the first or second week of June to determine whether there was consensus on the submitted draft text; (ii) if there was consensus, request the Secretariat to draft a new version of the report (G/SPS/W/280/Rev.3), changing only the second bullet of

paragraph 14.20; (iii) discuss G/SPS/W/280/Rev.3 in an informal meeting before the July SPS meeting; and (iv) put forward document G/SPS/W/280/Rev.3 for adoption during the July SPS Committee. The Committee agreed to move forward on this basis.

4.6.2 The report of the Fourth Review: Options for discussion – Proposal by the United States (G/SPS/W/291)

4.86. The Chairperson reminded the Committee that this agenda item had been taken up under the previous agenda item.

5 CROSS-CUTTING ISSUES

5.1 Workshop on Pesticide Maximum Residue Levels (MRLs): Possible next steps for consideration by the SPS Committee – Proposal by Kenya, Uganda and the United States (G/SPS/W/292)

5.1. The Chairperson reminded Members that following the Workshop on Pesticide Maximum Residue Levels in October 2016, Kenya, Uganda and the United States had presented a proposal on possible next steps for consideration by the SPS Committee. The Chairperson indicated that this proposal had been discussed at the informal meeting on Tuesday 21 March 2017 and invited the Secretariat to present a short, factual report on the discussions.

5.2. The Secretariat had reported that regarding the follow-up to the Workshop on Pesticide MRLs, it was in the process of preparing a summary report of the Workshop, but that it had not been finalized as yet. The United States had then taken the floor to introduce the proposal on possible next steps for consideration by the SPS Committee (G/SPS/W/292) jointly submitted with Kenya and Uganda. The proposal had suggested five main follow-up actions for Members to consider, in order to advance the Committee's work on trade-related MRLs, namely: (a) enabling JMPR to better respond to increased demand and monitoring progress on new Codex MRLs; (b) strengthening notification practices for greater transparency and predictability on MRLs; (c) reporting to the Committee on international and regional activities on MRLs; (d) collaborating on solutions for MRLs for minor use and specialty crops; and (e) discussing the role of the Committee in increasing coordination and harmonization. In relation to the last proposal, the United States had also highlighted that if there was consensus in the Committee on any of the proposed suggestions, the Chairperson could issue a statement reflecting this consensus.

5.3. Several Members had taken the floor to signal their support for the proposal, highlighting that the areas mentioned were of interest for many Members and that the suggestions would assist in improving market access for agricultural exports. Some Members had indicated that they were in the process of reviewing the document and consulting with their capitals, and that they would need additional time to finalize these deliberations with a view to providing comments at a later stage. Several Members had made preliminary suggestions to further improve the proposal.

5.4. Regarding the proposal related to JMPR, several Members had highlighted the importance of strengthening coordination with Codex, especially in relation to improving the Codex MRL system and JMPR's work, as well as supporting the initiatives undertaken by FAO and WHO to ensure the funding of scientific advice. In addition, Members had called for further reflection on concrete actions to improve the efficiency of JMPR and to address issues related to its capacity constraints.

5.5. On the proposal related to strengthening notification practices, many Members had underscored the role of transparency in managing trade risks, while some had made suggestions on how to implement the suggested actions. Some Members had observed that while the SPS Agreement did not require notifying all changes in MRLs, the SPS Committee had encouraged Members to do so through the Recommended Transparency Procedures in G/SPS/7/Rev.3. Some had suggested repeating this recommendation in any document issued by the Committee. Some Members had also expressed concern that one suggestion in the joint proposal, related to enabling public comments outside the framework of the SPS Committee, could result in lengthy delays.

5.6. Regarding the proposal related to reports on international and regional MRL activities, one Member had suggested that these reports should not only be limited to the organizations referenced in the proposal.

5.7. On the proposal related to solutions for MRLs, several Members had emphasized the importance of generating data for minor use crops, in order to facilitate the development of Codex MRLs and to further support the work of existing projects being carried out by several organizations. One Member had requested that these project initiatives be extended to other African countries that also required data. Another suggestion had related to assessing the potential impact of paragraph 4.3 of the proposal, while continuing discussions on this paragraph. Canada had highlighted the Global Minor Use Summit, which would be held in Montreal from 1-4 October 2017.

5.8. Regarding the proposal related to the role of the Committee in increasing coordination and harmonization, several views had been expressed on how to move forward. Some Members had been in favour of issuing a summary, which could include suggestions on a way forward if there was consensus by the Committee, although some Members had indicated the need for more time for internal consultations. Overall, Members had expressed interest in continuing discussions on the proposal.

5.9. India had also reminded Members of the proposals made in document G/SPS/W/284, highlighting the issues faced by exporters from developing countries in relation to the application of limits of detection (LOD) in importing countries.

5.10. In concluding the discussion at the informal meeting, the United States had indicated that it looked forward to additional discussions on how to take the proposals forward, including on the consensus vehicle.

5.11. The United States expressed its appreciation for Members' support and engagement at the informal meeting and reiterated its commitment to concretely move the proposal forward in the Committee. In particular, the United States welcomed a process where Members could submit comments, following which additional consultations could be held with the co-sponsors of the proposal in order to determine the best consensus vehicle, for subsequent discussion during the next Committee meeting.

5.12. The Chairperson invited Members to submit written comments on the proposal by 31 May 2017.

5.13. The WHO welcomed the proposal for follow-up work on pesticide MRLs. In relation to the JMPR recommendation, the WHO encouraged Members to have their national experts apply to serve as experts to the JMPR process.

6 TECHNICAL ASSISTANCE AND COOPERATION

6.1 Information from the Secretariat

6.1.1 WTO SPS activities (G/SPS/GEN/521/Rev.12, G/SPS/GEN/997/Rev.7)

6.1. The Secretariat drew the Committee's attention to G/SPS/GEN/521/Rev.12, which provided an overview of all SPS specific technical assistance activities undertaken by the WTO Secretariat from 1 September 1994 to 31 December 2016. The document presented the number and type of activities delivered each year, including information such as the regions covered, languages used and participation of the international standard-setting bodies and much more. The document showed that since 1994, there had been 364 SPS-specific TA activities, with an overall participation of more than 14,000 persons. In 2016, 19 SPS-related training activities had been undertaken: four regional workshops; 9 national seminars; an Advanced SPS Course; a Thematic Workshop on Pesticide MRLs; and four courses organized by other organizations.

6.2. The Secretariat also indicated that document G/SPS/GEN/997/Rev.7 provided information on the planned technical assistance activities for 2017. The activities included the Advanced Course on the SPS Agreement (to be held in English) in October, and a Thematic Workshop on Transparency to be held on the margins of the October SPS Committee meeting. The deadline for officials from least-developed and developing countries to apply for funding to participate in these two activities was 9 June 2017. 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 2017, upon request from regional organizations or a Member in conjunction with a regional organization. On this basis, regional SPS workshops were scheduled to take place in two regions: (i) Latin America (co-organized with the Inter-American Institute for Cooperation on Agriculture) – to be held in Costa Rica, during the week of 12 June 2017,² with a focus on good regulatory practice; and (ii) Arab countries (co-organized with the IMF-Middle East Centre for Economics and Finance) – to be held in Kuwait, during the week of 19 November 2017. Two other SPS regional 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 October 2016. These activities included: four national seminars held in Comoros, Guatemala, Peru and Sri Lanka; and two regional workshops held in Singapore. Specifically, the first regional workshop focused on trade facilitation, TBT and SPS issues, and the second focused on Agriculture and SPS issues. More general training on the SPS Agreement had also been provided in the following activities: WTO Advanced and Regional Trade Policy Courses; SPS Training Programme organized by the Swedish International Development Cooperation Agency (SIDA); Training of Trainers' Regional Workshop on the e-Ping System in Uganda, organized under the EAC and US Cooperation Agreement on SPS and TBT Measures; and the Americas Pesticide Workshop organized by Canada, IICA and USDA, held in Ecuador in March 2017. The Secretariat thanked Canada for inviting and funding the WTO's participation in the Pesticide Workshop, acknowledging the very informative nature of the activity, which had provided another useful opportunity for the Secretariat to highlight Members' SPS obligations in relation to pesticide MRLs.

6.5. In response to a question from Nigeria, the Secretariat responded to a question from one Member that the ePing system had been operational since November 2016 and encouraged Members to provide feedback. Several training activities had been organized under the EAC and US Co-operation Agreement on SPS and TBT Measures, in which the WTO had participated. In particular, the Secretariat highlighted the Training of Trainers' Regional Workshop held in Uganda at the end of 2016, as an example of specific training provided to WTO Members.

6.6. The Secretariat also informed Members of upcoming national activities that were being scheduled for Bangladesh, Botswana, Colombia, Jordan, Kazakhstan, Liberia, Pakistan, Paraguay and Tunisia. The E-Learning Course on the SPS Agreement was available all year-round in the three WTO working languages. Further information on SPS technical assistance activities could be obtained on the WTO website or by contacting the Secretariat.

6.1.2 STDF (G/SPS/GEN/1538)

6.7. The STDF Secretariat provided an overview of its activities, as circulated in document G/SPS/GEN/1538, as well as an update on decisions made by the STDF Working Group that had met on 20-21 March 2017.

6.8. Building on the trade facilitation research that had been previously undertaken by the STDF, the subject of good regulatory practice in the SPS area had been identified for future work. This included examining the tools, processes and methods to ensure that regulations were fit for purpose. The STDF also observed that more work could be done in the area of transparency in order to facilitate trade, noting the challenges associated with obtaining information on SPS regulations in many developing countries. An outcome of the work to be undertaken on good regulatory practice could also focus on the further elaboration of a checklist, already implemented by the SPS team, which assists regulators to verify whether their measures were consistent with the SPS Agreement.

6.9. A step-wise approach had been agreed by the Working Group in moving forward on the work on good regulatory practice. The first step would entail identifying examples of good regulatory practice, in particular in developing countries, through an informal survey to be circulated through

² The date of this activity was subsequently changed to the week of 19 June 2017.

the SPS Committee distribution list. The survey would be developed in the coming weeks, with a core group of interested STDF partners: FAO, OIE, IPPC, Codex, the World Bank, WTO, as well as the United States and the European Commission as donor Members. The OECD had also expressed its interest in being involved. The STDF encouraged the participation of Members in this survey, and indicated that additional information would be further communicated.

6.10. Two recent STDF briefing notes were highlighted. The [first briefing note](#) described how STDF projects were improving the private sector's capacity to implement SPS measures and to take advantage of trade opportunities. The private sector's contribution to STDF projects, whether financial or through specific expertise and knowledge, was also acknowledged. The [second briefing note](#) focused on the impact of STDF projects on women, especially through value chain projects.

6.11. The STDF noted the increased interest in the SPS market access prioritization tool (SPS-MAP), which was a tool that provided a framework to assist developing countries to prioritize SPS investment options for market access, enhance the dialogue between public and private sector, and improve transparency in the decision-making process on SPS priorities. Specifically, the STDF Working Group had recently approved a proposal submitted by Madagascar, to apply this framework. Another proposal was also under preparation by COMESA to use this tool. The results of this work would feed into the Comprehensive Africa Agriculture Development Programme (CAADP).

6.12. The Working Group had approved five Project Preparation Grants (PPGs) benefitting Burkina Faso, Cameroon, Guinea, Madagascar and Sri Lanka. Four project grants had also been approved benefitting Costa Rica, Ethiopia and Tajikistan, as well as a global project that would support developing countries to implement a systems approach in pest risk management, related to ISPM 14.

6.13. Some of the upcoming STDF events included a side session focusing on electronic SPS certification during the Sixth Global Review of Aid for Trade (11-13 July 2017). In addition, an event jointly organized by Canada and France, in collaboration with STDF, to be held on 27 March 2017, where the results of three STDF projects in West Africa would be presented, in celebration of the International Day of the Francophonie.

6.14. Lastly, the STDF noted that information about how to apply for funding, and the eligibility criteria were available in G/SPS/GEN/1538 and on the STDF website. The next deadline for submission of applications was 4 August 2017. The STDF highlighted that applications continued to be welcomed, however, the funding situation was still critical. This meant that the STDF would not be in a position to approve and finance any new projects at the next Working Group in October 2017, unless new funding became available.

6.2 Information from Members

6.2.1 Senegal - Assistance received by the mango sector

6.15. Senegal acknowledged the technical assistance received from the Enhanced Integrated Framework (EIF) in the mango sector, as well as the support provided by ECOWAS regional projects in dealing with the fruit fly issue. Considerable results had been achieved under these projects, such as capacity building to support stakeholders in this sector and the development of a quality control plan for companies. Senegal indicated that more work remained in order to promote the potential of this sector, and appealed for additional support from partners. The impact of private standards on the sector was also highlighted. Senegal indicated its appreciation for the support provided by the STDF, the European Union, the Enhanced Integrated Framework, the African Union, as well as the SPS Secretariat.

6.2.2 Madagascar – Technical assistance received

6.16. Madagascar acknowledged the follow-up actions taken by the United States in response to its technical assistance request submitted to the Food and Drug Administration (FDA), in relation to the implementation of FSMA. Information sessions were held via videoconference with FDA representatives, organized through the United States embassy and the chamber of commerce in Madagascar, and targeted at exporters and national authorities. In relation to the requirement for

national certification bodies to be accredited by the FDA, Madagascar requested further technical assistance from the FDA, so that certification bodies could conform to its regulatory provisions, and ensure access to the United States market.

6.2.3 Chile – Technical assistance activities

6.17. Chile provided an update on its international cooperation activities in the Central American and CARICOM regions, particularly in the area of phytosanitary certification, border control, e-certification and agricultural policy. These activities were aimed at boosting triangular cooperation in the region and were mainly financed by the United States, as well as the European Union. Activities would also be carried out in other geographical regions, such as the Pacific (Fiji) and Africa (Mozambique). Chile highlighted the participation of several countries in the activities that had been organized.

6.2.4 Burkina Faso – Technical assistance received

6.18. Burkina Faso informed the Committee that it had received technical assistance to combat fruit flies, under a regional project funded by several organizations, including the European Union and ECOWAS. This assistance was aimed at building capacity in order to reduce the negative effects of fruit flies and gain market access to the European Union, e.g. training of phytosanitary inspectors on official controls. Burkina Faso also recognized the technical support provided by the EIF in the development of export guidelines for sesame, which had facilitated the export of quality sesame seeds, as well as the assistance provided by the African Union to participate in the SPS Committee.

6.2.5 The Gambia – Technical assistance requested

6.19. The Gambia requested support to generate data on contaminants in various foods in order to support Codex work in setting MRLs, such as methylmercury in fish, lead in food and inorganic arsenic in rice. The Gambia observed that the MRL of 0.35mg/kg for inorganic arsenic in husked rice had been adopted at the 39th Codex Alimentarius Commission, but noted that limited data from only one African country had been used in the process. This MRL would be revised after three years, and in this regard, the Gambia requested Members' support in generating data to facilitate its effective participation in the revision of the MRL. The Gambia also highlighted that there had been no inputs from Africa in the discussions on Codex MRLs for lead or methylmercury. The Gambia requested that JECFA evaluate the impact of different MRL scenarios on trade and health. The Gambia acknowledged the STDF support provided to Africa in the data generation process for pesticide residues on minor crops for JMPR evaluation. The Gambia underscored the need to generate similar data for inorganic arsenic, lead and methylmercury to ensure increased public health protection and to facilitate trade.

6.20. Ghana, Guinea, Madagascar and Seychelles supported The Gambia's request for assistance in generating data to establish MRLs for the identified contaminants. The Chairperson noted the requests and invited potential donors to provide assistance.

6.2.6 Togo – Technical assistance received

6.21. Togo acknowledged the ongoing technical assistance provided by the EIF, which had strengthened Togo's production and trading capacity in the soya sector, through training undertaken in workshops on product quality standards and on the SPS Agreement. Togo indicated its appreciation for STDF support, recalling that at the Working Group in October 2015, its request for a project preparation grant (PPG) to develop a national SPS strategy had been approved. This had led to the subsequent validation of the national SPS strategy by stakeholders, at a workshop held in October 2016. Within the context of implementing this national strategy, Togo had applied for a STDF project grant aimed at strengthening SPS controls, in order to improve market access for agriculture, fishery and food products. Togo hoped for a positive outcome on its application. Togo also expressed its appreciation for the technical and financial assistance provided by the Inter-African Bureau for Animal Resources of the African Union (AU-IBAR).

6.2.7 Nigeria - Technical assistance received

6.22. Nigeria acknowledged the support provided by AU-IBAR on several SPS-related activities, which had led to increased expertise and understanding of the SPS Committee's functions, as well as contributed to effective participation in the SPS Committee. Nigeria also acknowledged the support provided by the USDA – through its review of Nigeria's food policy; FAO – through support in sensitizing Nigeria's Food Safety Management Committee members; and the European Union – through support of a quality infrastructure programme, via a project called 'Zero Rejects'. In addition, GIZ had supported the finalization of the last notification submitted to the WTO, with EU support.

6.2.8 Mozambique – Technical assistance requested

6.23. Mozambique indicated its appreciation for the ongoing support provided by the African Union, as well as several countries and partners in various technical areas. Mozambique expressed its concern regarding the available languages for WTO technical assistance, highlighting that as a Portuguese-speaking country, it faced difficulties in participating in, as well as requesting, WTO technical assistance activities. Mozambique acknowledged that Portuguese was not an official WTO language, but also highlighted that several countries faced a similar issue. Mozambique requested the support of Members in addressing this issue, such as by assisting with the funding of interpretation services for workshops.

6.24. The Chairperson took note of the request and invited potential donors to assist with this request.

7 CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS

7.1. The Chairperson reminded the Committee that this agenda item was closely linked to the discussions on the Review of the SPS Agreement, which had already been discussed under a previous agenda item. Members were invited to take the floor on other matters relating to this agenda item.

7.2. Nigeria reiterated its position on private and commercial standards, noting that these standards negatively affected African exports, as well as compromised the ability of developing countries to compete with multinational companies in developed countries. Nigeria observed that most African countries, and other developing countries, were still experiencing difficulties in meeting international standards and that private standards would compound these difficulties, as well as present additional barriers to trade.

7.3. Senegal supported Nigeria's statement.

8 OBSERVERS

8.1. The Chairperson welcomed CAHFSA, as it was attending its first Committee meeting, since it had been granted observer status in October 2016.

8.1 Information from observer organizations

8.1.1 CAHFSA

8.2. CAHFSA provided an overview of its mandate, as well as an update on its activities of interest to the Committee, described in more detail in document G/SPS/GEN/1537. Highlights included its work in developing regional standards for value-added products, activities undertaken with respect to risk analysis in the animal and plant health area, and the development of a procedure for SPS-related trade dispute settlement within CARICOM.

8.1.2 IGAD

8.3. IGAD reported on recent activities of interest to the Committee through document G/SPS/GEN/1532. Highlights included updates on its regional SPS strategy, as well as animal

welfare and disease-eradication strategies. IGAD also indicated that it would be jointly organizing with the WTO Secretariat a regional SPS workshop for IGAD members in 2017.

8.1.3 OECD

8.4. OECD provided information on its work on trade-related international regulatory cooperation as contained in G/SPS/GEN/1535. OECD reminded the Committee of the information previously provided, in the October 2016 SPS Committee, on the *Theoretical Framework for Trade-Related International Regulatory Co-operation* (G/SPS/GEN/1528). This work on international regulatory cooperation was also presented during the OECD side session which took place on the margins of the Committee meeting. The OECD drew the attention of the Committee to the recent publication on non-tariff measures and global value chains, available at <http://dx.doi.org/10.1787/5j1pq80ts8f2-en>. Recent work on international regulatory cooperation included the publication of "[*International Regulatory Cooperation: The Role of International Organizations in Fostering Better Rules of Globalisation*](#)". The OECD also provided an update on the joint meeting of the Regulatory Policy Committee and the Trade Committee on trade and international regulatory cooperation.

8.5. The United States indicated that given the interest expressed in the harmonization work of OECD during the Workshop on Pesticide MRLs, future reports from the OECD on their pesticide harmonization work would be welcomed.

8.1.4 OIRSA

8.6. OIRSA reported on recent activities of interest to the Committee through document G/SPS/GEN/1536. OIRSA recalled that in the strategic plan of 2015-2017, regional and international activities had been undertaken to tackle animal and plant quarantine issues. OIRSA also highlighted its technical assistance work including the organization of workshops held in the region on trade issues, as well as several online courses.

8.1.5 IICA

8.7. IICA reported on recent activities of interest to the Committee through document G/SPS/GEN/1542. IICA indicated that the CARIFORUM SPS project would be concluded at the end of March 2017 and acknowledged the financial support provided by the European Union under the 10th EDF. The project had developed model bills on plant and animal health, and food safety which had been validated and sent to the CARICOM Secretariat for endorsement. It was expected that this work would result in increased international and regional trade, as well as market access. In addition, national coordination mechanisms had been developed for ten countries, as well as a regional mechanism had been created to improve coordination across agricultural health and food safety groups and agencies. The Caribbean Agricultural Health and Food Safety Agency (CAHFSA) had been operationalized and regional SPS bodies had been strengthened.

8.8. IICA noted the various capacity building activities that had been provided to more than 2,000 regulatory and private sector actors in areas such as surveillance, traceability, risk analysis, and antimicrobial resistance. In addition, more than 50 knowledge products on key animal health and food safety issues had been developed. A follow-up workshop on Pesticides in the Americas: Exploring Commercial and Regulatory Matters had also been held in Quito, Ecuador on 6 March 2017, which had brought together 51 delegates representing 18 countries in Latin America, the Caribbean and Asia. IICA had also hosted a Codex Colloquium, immediately following the workshop to prepare CCLAC delegates for several Codex Committees dealing with pesticide residues, additives and contaminants (i.e. CCPR, CCCF and CCFA). IICA expressed appreciation to Canada and the United States for the support provided and to the SPS Secretariat for their participation.

8.9. IICA highlighted its work with USDA, FDA and USAID in building capacity to support the implementation of FSMA, including training on preventative controls and future activities in relation to produce safety rules. Finally, IICA announced that it would be hosting a strategy session on 25-26 April 2017, to address recent proposals to the OIE Terrestrial Animal Health Code.

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

8.2.1 New requests

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

8.2.2 Outstanding requests

8.11. The Chairperson reminded the Committee that in 2012, it had agreed that if for any one-year period an ad hoc observer organization did not attend any meetings of the SPS Committee, its observer status would lapse, but only after the Secretariat had contacted the observer organization and received confirmation that it was no longer interested in maintaining its observer status. The Chairperson recalled that in the October 2016 meeting, the Secretariat had been requested to verify whether any ad hoc observer organizations had not attended a single Committee meeting in 2016. The Secretariat had also been requested to contact any such organizations and seek information regarding their continuing interest to participate in the SPS Committee.

8.12. The Secretariat informed the Committee that it had contacted the two ad hoc observer organizations that did not attend any meetings of the SPS Committee during 2016, to request confirmation of their continuing interest to participate as an ad hoc observer in the meetings of the SPS Committee. These two 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. The Secretariat further drew the Committee's attention to the updated list of observer organizations available in G/SPS/W/78/Rev.14, which included the Caribbean Agricultural Health and Food Safety Agency (CAHFSA), following the granting of ad hoc observer status at the October 2016 meeting.

8.13. 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 Organisation (ICCO).

8.14. 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 2017. The Chairperson further encouraged observers to provide written reports on their relevant activities in advance of the July 2017 meeting.

9 OTHER BUSINESS

9.1 Ecuador – Brazil's measures on shrimp (STC No. 344)

9.1. Ecuador referred to its previously raised concern regarding Brazil's suspension of shrimp imports from Ecuador following the implementation of Regulation No. 39/99 on 4 November 1999. Shrimp imports were subject to authorization, once a prior risk analysis had been undertaken by the Animal Protection Department in Brazil. Ecuador argued that the measure was not based on scientific evidence or on a risk assessment, as required by Articles 2.2. and 5.1 of the SPS Agreement. Ecuador acknowledged Members' right under Article 5.7 to adopt provisional measures, but highlighted the obligation to obtain the necessary additional information for a more objective risk assessment and to review the measure in a reasonable period of time, whereas the measure at issue did not take into account Article 3.1 of the SPS Agreement or the OIE recommendations, particularly those in Chapters 2.2.2 and 2.2.7 of the Manual of Diagnostic Tests for Aquatic Animals.

9.2. Ecuador recalled that the Brazilian Ministry of Agriculture had established a general procedure for undertaking import risk analysis of fish and fish products, as well as aquatic animals and propagating materials (Regulation No. 14). Ecuador insisted that it had provided sufficient information to Brazil, and noted that a group of technical experts from Brazil had visited various entities in Ecuador. Ecuador underscored that it had implemented a series of measures to

guarantee the quality of its shrimp, however, no import risk assessment had been undertaken up to the last Committee meeting in October 2016. Ecuador highlighted the obligation under Annex C(1) of the SPS Agreement for Members to carry out a risk assessment with no undue delay.

9.3. Ecuador had been informed by its Embassy in Brasilia of the circulation of Memorandum-Circular 6/2017/DSA-SDA/SDA/MAPA of February 2017, which established a series of animal health requirements for the import of shrimps. Ecuador welcomed this decision which would clarify the conditions under which shrimps could access their market, however, it was currently awaiting official confirmation of this information and further requested Brazil to provide this confirmation in a timely manner. Ecuador also raised a series of questions, which it requested Brazil to transmit to its competent authority, in relation to the product coverage of the Circular and authorization procedures, among others. Ecuador had also learnt of an Executive Decision to transfer the Aquaculture and Fisheries Secretariat of the Ministry of Agriculture to the Ministry of Industry, Foreign Trade and Services. Ecuador expressed its concern that these administrative changes could result in undue delays, similar to delays experienced in 2015 due to the transfer of responsibilities to the Ministry of Agriculture.

9.4. Brazil indicated that it was unable to provide a complete response, since it had not been aware of the content of Ecuador's intervention. However, Brazil noted that the process for the authorization of shrimps from Ecuador was in its final phase and underscored that the process had taken into consideration the submissions from Ecuador, as well as all available scientific evidence. Brazil requested Ecuador to submit a written copy of its questions for onward communication to its capital.

9.2 Chinese Taipei - Thailand's import restriction on papaya seeds

9.5. Chinese Taipei referred to Thailand's import restrictions on papaya seeds. It observed that although a risk assessment had been conducted 9 years ago, and despite repeated requests, no proper response had been received from Thailand. Prior to 2008, papaya seeds had been exported to Thailand. Chinese Taipei observed that Thailand itself did not attribute the ban on papaya seeds to any pest issue in Chinese Taipei, but was simply the result of a regulatory amendment in 2007. Thailand had requested detailed information for conducting a risk assessment prior to reopening its market. However, Chinese Taipei argued that this approach was inconsistent with IPPC ISPM No.2 *Framework for Pest Risk Analysis*.

9.6. Chinese Taipei had provided detailed historical records of trade, as well as a pest list, in response to Thailand's request in April 2008. Additional data on papaya seed varieties had also been requested in June 2010 and promptly provided. Since then, Chinese Taipei had sought on multiple occasions an update on the progress of the risk assessment, without substantive response. In March 2016, Thailand further requested supplementary information on three kinds of pests with a risk of being spread by the papaya seed trade: *Candidatus phytoplasma solani*, *Tobacco ringspot virus* and *Tomato spotted wilt virus*. In response, Chinese Taipei had provided in August 2016 scientific evidence showing that there was no record of these pests being spread through the trade of papaya seed, and that these pests had never been found in papaya seeds in its territory. Discussions had taken place on the margins of the SPS Committee and Chinese Taipei indicated that the dossiers of scientific evidence, requested in October 2017, had now been received and would be reviewed by Chinese Taipei's experts, following which feedback would shortly be provided to Thailand's competent authority. Chinese Taipei also indicated that it looked forward to receiving the import protocols.

9.7. Chinese Taipei underscored its efforts to provide the relevant information in a timely manner and urged Thailand to move forward or to provide proper scientific justification, arguing that Thailand's restrictions were inconsistent with Articles 2, 3 and 5 of the SPS Agreement, as well as Article 7.2 of the International Plant Protection Convention. Chinese Taipei encouraged Thailand to comply with its WTO commitments, in particular Articles 5.6 and 5.8 of the SPS Agreement, and to re-open its market to papaya seeds without further undue delay.

9.3 Peru – Regulation of the European Parliament and of the Council on Novel Foods

9.8. Peru referred to its previously raised concern regarding the EU Regulation on novel foods which restricted the entry into the European market of traditional biodiversity products not marketed in the European Union before 15 May 1997. This concern had previously been raised in several SPS Committee meetings. Peru outlined that although the European Union had notified the modifications to the regulation, through bilateral channels, as well as through EFSA, to date no information had been circulated regarding the conformity of these regulations to the SPS Agreement. Peru argued that implementation of this regulation constituted an unjustified barrier to the Peruvian food trade and urged the European Union to provide the scientific justification underpinning the regulation, as well as to align its regulation with the SPS Agreement. Peru reserved the right to include this concern on the agenda of the next Committee meeting.

9.4 United States – Rules for interventions under 'Other Business'

9.9. The United States recalled the strict rules for Members' intervention under the agenda item "Other Business", highlighting that the General Council's rules, which also applied to the Committee, clearly stated, *inter alia*, that Members' representatives should not take the floor with long interventions, particularly on substantive issues and that any request should be in the manner of "for your information", as well as notified well in advance, if it involved other Members. The United States urged the Committee to respect these rules.

9.10. The Chairperson echoed the intervention of the United States, highlighting that "Other Business" was not meant to be used for substantive discussions or to intervene on issues for which the deadline to be included in the Airgram had been missed. The Chairperson also urged the Committee to respect the rules of procedures on this issue.

9.5 Canada – Next steps on Fourth Review

9.11. Canada queried the next steps for the Fourth Review. In response, the Chairperson recalled that the Committee had agreed on a deadline of 31 May 2017 for the submission of draft language. Several delegations, such as Argentina, Brazil, Canada, Kenya and the United States, had expressed their willingness to work on draft language. On this basis, the Chairperson invited interested Members to work together to develop and submit ideally one common draft suggestion to the Secretariat in order to finalize the report in a timely manner. This language would be subsequently circulated through the SPS contact list. The Chairperson also indicated that it would suggest to the incoming Chairperson to hold an informal consultation to determine whether the suggested language would be acceptable, following which, the Secretariat would be requested to prepare a revised version of the Fourth Review Report, if there was consensus on the language.

10 DATE AND AGENDA FOR NEXT MEETINGS

10.1. The next regular meeting of the Committee was tentatively scheduled for 13-14 July 2017, with informal meetings on 11-12 July 2017. The Secretariat recalled that the Committee had planned to hold an informal thematic session on regionalization and depending on the stage of the discussions, informal meetings would also be held on the Fourth Review and the Catalogue of Instruments.

10.2. The Secretariat further indicated that the Codex Alimentarius Commission was scheduled to take place the week after SPS Committee meeting, in Geneva. The Aid for Trade Review, with the theme "*Promoting Connectivity*", would also take place during the same week as the SPS Committee. The Secretariat encouraged Members to attend and indicated that it would circulate the programme for the Aid for Trade Review to the Committee mailing list, as soon as it was made available.

10.3. The Committee agreed to the following tentative agenda for its upcoming regular meeting:

1. Adoption of the agenda
2. Election of the Chairperson
3. Information sharing

- a. Information from Members on relevant activities
 - b. Information from OIE, Codex and IPPC on relevant activities
 4. Specific trade concerns
 - a. New issues
 - b. Issues previously raised
 - c. Information on resolution of issues
 5. Operation and implementation of the SPS Agreement
 - a. Equivalence
 - b. Pest- or disease-free areas
 - c. Operation of transparency provisions
 - d. Special and differential treatment
 - e. Monitoring the use of international standards
 - i. New issues
 - ii. Issues previously raised
 - f. Fourth Review
 6. Cross-cutting issues
 7. Technical assistance and cooperation
 - a. Information from the Secretariat
 - i. WTO SPS activities
 - ii. STDF
 - b. Information from Members
 8. Concerns with private and commercial standards
 9. Observers
 - a. Information from Observer organizations
 - b. Requests for observer status
 10. Other business
 11. Date and agenda of next meeting
- 10.4. Members were asked to take note of the following deadlines:
- For submitting suggestions on the transparency workshop: **Wednesday, 31 May 2017;**
 - For submitting comments on the proposal for follow-up to the workshop on Pesticide MRLs submitted by Kenya, Uganda and United States: **Wednesday, 31 May 2017;**
 - For submitting suggested language, by a group of interested Members, on recommendation 2 of paragraph 14.20 of the Fourth Review Report (G/SPS/W/280/Rev.2), based on Members' consultations and the US proposal (G/SPS/W/291) for onward circulation to SPS delegates: **Wednesday, 31 May 2017;**
 - For identifying new issues for consideration under the monitoring procedure and for requesting that items be put on the agenda: **Thursday, 29 June 2017;**
 - For the distribution of the Airgram: **Friday, 30 June 2017.**
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