
Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 18-19 OCTOBER 2012

Note by the Secretariat¹

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I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its fifty-fifth regular meeting on 18-19 October 2012. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/4012).

II. INFORMATION ON RELEVANT ACTIVITIES

(a) Information from Members

2. Australia drew attention to the on-going reform of its biosecurity system and the release of Australia's draft biosecurity legislation for comment. Due to its size and complexity, the draft legislation was released progressively. Australia notified the first draft on 4 July 2012 as G/SPS/N/AUS/298, followed by two additional releases, and the final chapters of the draft legislation were notified in G/SPS/N/AUS/298/Add.3. The consultation period was extended to 24 October 2012. Australia would also develop detailed regulations on the implementation of the legislation and notify these for comments. Regardless of the legislative changes, all existing approvals to export to Australia would continue to be valid until their normal expiry.

3. Japan reported that since the nuclear plant accident, earthquake and tsunami disaster, the country had been on a steady path to recovery and received assistance from around the world. Priority was given to food safety based on scientific evidence, and new and stricter standard limit values of radioactive materials in food products were the basis for inspection to avoid placing any contaminated foods on the market. Some countries continued, however, to impose import bans and other excessive restrictions on Japan's exports. Japan would continue providing scientific data and ensure the safety of all its food exports and requested other Members to take measures based on scientific principles.

4. The European Union provided information on the latest developments in the situation of foot and mouth disease (FMD) in Bulgaria. Bulgaria reported 11 outbreaks of FMD in domestic and wild animals in the Burgas region near the border with Turkey in 2011. All of these outbreaks were notified to the World Organization for Animal Health (OIE); necessary steps to control the outbreak and avoid further spreading of the disease were taken. The OIE restored the FMD-free without vaccination status of Bulgaria as of 31 August 2012.

5. Mexico reported that avian influenza type A virus subtype H7N3 had in commercial poultry operations in eight municipalities in the state of Jalisco (see G/SPS/GEN/1175). The national health department and the Agro-food safety and quality department were monitoring the presence of the virus, taking samples from production units and processing in the official laboratories. A rigorous vaccination programme had been conducted and was reinforced with anti-epidemic measures like quarantines, disinfection and depopulation of quarantine areas. Mexico requested Members to apply the guidelines laid down by the OIE in order to avoid unjustified negative impacts on trade.

6. Mexico also drew attention to various recent publications. Information on changes to the Federal Law on Animal Health was provided in G/SPS/GEN/1176. An agreement establishing the provisions for use of additives and processing aids in food, beverages and food supplements was described in G/SPS/GEN/1177. A communication on import and export certificates for agricultural, livestock, aquaculture and fisheries products was contained in G/SPS/GEN/1183. Document G/SPS/GEN/1192 provided information on the national tick (*Boophilus SPP*) control campaign, particularly on animal health measures to protect areas not infected by this parasite.

7. Paraguay reported that since its notification to the OIE of the reappearance of FMD in September and December of 2011, veterinary officials had restructured their epidemiological FMD

surveillance and vaccination activities. Biosecurity laboratories were instituted and took samples for diagnosis of FMD as well as other diseases affecting animals. Some Members already recognized the steps Paraguay took to restore its FMD-free status and over 20 markets had been re-gained. Paraguay further thanked Brazil, the European Union, India and other trading partners for their assistance, particularly in training they delivered.

8. Belize reported on a project funded by the Standard and Trade Development Facility (STDF) to apply the Multi-Criteria Decision Analysis Framework (MCDA), to structure the setting of priorities in SPS decision-making within a multi-disciplinary scenario. The application of the MCDA had resulted in eight capacity building options. Most important was the allocation of national funds for at least three of the top four options, which required minimal investments yet had impact on product diversification for small farmers. Several lessons were learnt in the application of the MCDA framework including that good stakeholder representation is essential in identifying key issues. The application of the specialized tools - OIE Evaluation of the Performance of Veterinary Services (OIE PVS) and the OIE Gap Analysis, the Phytosanitary Capacity Evaluation (PCE) and the Performance, Vision and Strategy Tools developed and applied by the Inter-American Institute for Co-operation on Agriculture (IICA) - helped identify the important areas that needed to be strengthened and established benchmarks by which competent authorities could measure their level of compliance. The MCDA framework allowed for clear prioritization of areas with the most impact on trade facilitation and encouraged greater appreciation by stakeholders of the work conducted by the SPS competent authorities. Belize also appreciated the team of SPS experts who had supported the process.

(b) Information from Observer Organizations

9. The World Organization for Animal Health (OIE) provided an update on developments in its standard setting work programme (G/SPS/GEN/1198). The OIE Terrestrial Animal Health Standards Commission (Code Commission) had adopted revised criteria for listing diseases were adopted; discussed the delisting of some diseases and the updating of guidelines on antimicrobial resistance (AMR); and developed a "Model Core Veterinary Curriculum" to serve as a tool for veterinary educational establishments in OIE member countries.

10. The International Plant Protection Convention (IPPC) reported on its Strategic Framework; the progress of a phytosanitary trade dispute between South Africa and the European Union; the sustainability of the IPPC and the IPPC Financial Committee's creation of a Resource Mobilization Strategy adopted in CPM-7 (2012). More information is available in G/SPS/GEN/1202.

11. Codex highlighted that the Committee on Fish and Fishery Products had adopted a number of standards on smoked fish and smoke-flavoured fish; reviewed all additives for fish and fishery products; proposed standards for fresh, live and frozen abalone; and was working on performance criteria for reference methods for screening for microbial toxins. With regard to cooperation, Codex had been involved in activities with the other standard setting bodies, particularly with the OIE in the area of zoonotic parasites under discussion in the Committee on Food Hygiene. On scientific advice, the report of the latest Joint FAO/WHO Meeting on Pesticides Residues (JMPR), held in September 2012, was available on both the WHO and the FAO website. More information in G/SPS/GEN/1206.

12. Morocco expressed satisfaction with the work of Codex, especially in the area of standard setting for fish and fish products. The Chairperson encouraged Members to take interest in the work of the Three Sisters both as individual organizations and in the activities they conduct jointly.

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

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

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

(a) New Issues

(i) *Canada's Delay in Finalizing Inspection Procedures on Bovine and Poultry Meat – Concerns of Argentina*

14. Argentina expressed concerns at the delays in Canada opening its market for poultry and bovine meat despite favourable risk assessments. Argentina noted that the Canadian Food Inspection Agency (CFIA) had recognized the Argentine FMD free area without vaccination. In September 2009, the CFIA indicated that the risk assessment results regarding the FMD free area with vaccination were favourable to Argentina's exports of deboned, matured, fresh, chilled and frozen meat. Argentina's poultry was recognised as being free from Newcastle disease in 2004. Despite all required conditions having been satisfactorily met by 2011 (with the replies to questionnaires and audit of residues control by visiting bovine and poultry establishments in November 2010, among others), Canada continued to delay an audit visit to the inspection system of bovine and poultry meat which it itself requires. Argentina maintained that this delay was inconsistent with Article 8 and Annex C of the SPS Agreement, and requested effective access to the Canadian market for bovine and poultry products from Argentina. Canada responded that it fully intended to audit Argentina's beef and poultry meat inspection systems, but that recent budgetary and staffing restrictions forced the CFIA to postpone the visit until April 2013.

(ii) *Russia's Import Ban on Live Animals – Concerns of the European Union*

15. The European Union raised a concern regarding measures taken by Russia to ban imports of live non-breeding pigs and ruminants from the whole EU territory and breeding pigs from part of the European Union due to alleged *Brucella* findings. Russia had not provided scientific evidence to justify the ban, nor information on the proportionality of the measure nor the negative effects the ban sought to limit. Russia had identified only two cases of concern related to live animals, which the European Union deemed insufficient to provide justification for the complete ban. Russia had not provided a risk assessment warranting a total ban on imports, and the European Union asked Russia to lift the import ban on live breeding and non-breeding pigs.

16. Russia asserted that joint inspections by Russian and Customs Union experts found numerous and repeated violations in animal surveillance and the ban on live animals from the European Union was preceded by a risk assessment. Following negotiations, the European Union had agreed to take additional measures to ensure the safety of animals and animal products intended for the Russian market. The import ban was necessary to protect against animal diseases and unsafe animal products, but Russia was ready for further dialogue with the European Union.

(iii) *US Restrictions on Tomatoes (G/SPS/N/USA/2019) – Concerns of Senegal*

17. Senegal raised concerns regarding US restrictions on imports of tomatoes due to alleged presence of the pest *tuta absoluta*. In the framework of the African Growth and Opportunity Act (AGOA), a team of experts from the United States had made recommendations regarding Senegal's tomato production which were complied with. In 2009, when information was received of the reappearance of the *tuta absoluta* in parts of Europe originating from Latin America, Senegal effectively banned imports from infested areas, particularly Morocco, as notified in G/SPS/N/SEN/7 in 2010. The US ban on imports of tomatoes had not been notified or verified with the Senegalese authorities, although subsequently a bilateral technical meeting had been held to seek resolution of the issue.

18. The United States highlighted that the issue raised by Senegal was discussed in a bilateral technical discussion and an agreement to work together to address the concern was reached, with progress to be reported at the next meeting.

(iv) Turkey's Requirements for Importation of Sheep Meat – Concerns of Australia

19. Australia was concerned about the undue delay by Turkey in providing information regarding its measures on the importation of sheep meat, requested in April 2011. Australia recalled Turkey's obligations under the SPS Agreement to act in a transparent manner and to ensure that any SPS measure be based on scientific evidence, only applied to the extent necessary, and not unjustifiably discriminate between Members.

20. Turkey responded that its authorities were still working on the requirements and certification procedures for the importation of sheep meat, and that these would be in line with the SPS Agreement. Turkey also committed to sharing the outcomes with Australia as soon as these were completed.

(v) Russia's Barriers Related to the Listing of EU Establishments – Concerns of the European Union

21. The European Union was concerned that Russia had systematically refused the guarantees provided by EU member States for the listing of new establishments interested in exporting to Russia. No scientific justification was provided nor explanation given as to why member State guarantees, which were relied upon in the past, were no longer trusted. Further, Russia had increased restrictions through the temporary suspension of imports from certain EU establishments without scientific justification. Restriction was introduced on casings establishments despite the low risk profile of this commodity, as recognized by the OIE. Similar unfounded restrictions had been introduced on dairy and meat product establishments following a regional outbreak of Noro virus, apparently based on the assumption that the outbreak was due to inadequate veterinary supervision, without any real consideration of the risk at stake or the epidemiological link. The European Union requested Russia to lift its restrictions and rather facilitate the listing of establishments, and to take only proportionate measures if and when there was a scientific basis.

22. Morocco, Norway and the United States shared similar concerns regarding the listing of establishments. Norway specifically was concerned about the listing of companies that intended to export to Russia, as well as the process of reauthorizing already inspected companies which were temporarily not allowed to export to Russia. The United States expressed concerns with Russia maintaining registry requirements for certain products while it had agreed in its accession process and Customs Union decision 830 to remove these requirements Morocco shared similar concerns, and requested Russia to provide these new listings to the concerned countries in order to avoid economic repercussions.

23. Russia affirmed that it intended to comply with all the SPS-related commitments undertaken during its accession. It sought to implement its obligations under the WTO without disrupting or impairing its trade with former trading partners. The customs union regulation on joint inspection, Customs Union decision 834, considered the audit of foreign surveillance systems to establish their equivalence was the main mechanism to ensure the safety of imports. This was the same principle used by the European Union. Those establishments that had previously had the right to export to Russia could continue to do so, and imports from others would be permitted following a successful audit. The issue with regard to casings was that some products certified as coming from the European Union appeared to be sourced elsewhere. Russia was open to further discuss these matters with the European Union.

(vi) *Japan's Restrictions on Shrimp due to Anti-oxidant Residues – Concerns of India*

24. India expressed concern regarding Japan's introduction of mandatory testing for residue levels of ethoxyquin, an anti-oxidant commonly used as preservative in feed for aquatic animals. In 2005, Japan had notified a measure based on its Food Sanitation Act that regulated a positive list of agricultural chemicals and additives in food. This defined permissible residue levels of ethoxyquin at 0.01ppm for some products, but did not include MRLs in shrimp. Japan's new MRLs for shrimp was too stringent compared to the Codex MRL of 3ppm, was not based on scientific evidence and did not take into account the objective of minimizing negative trade effects.

25. Japan observed that no Codex standard for ethoxyquin in shrimp had existed at the time it changed its legislation. As India had not requested the establishment of a specific MRL for this product, the default tolerance level of 0.01 ppm applied. A risk assessment for ethoxyquin in shrimp was currently underway, so the default level was applied in the meantime. Japan remained committed to continuing consultations with India to resolve this matter.

(b) *Issues Previously Raised*

(i) *Application and Modification of the EU Regulation on Novel Foods – Concerns of Peru (No. 238)*

26. Peru reiterated its concern with regard to Regulation 238/97 on Novel Foods whose application continued to restrict access of traditional products into the European Union. Regulation 238/97 was in practice an unnecessary and unjustified barrier to trade, not adopted on the basis of an appropriate risk assessment taking into account scientific evidence, thus contrary to Article 5 of the SPS Agreement. Peru reiterated its request that the European Union exclude from the regulation traditional products arising from biodiversity and remove the unjustified hindrances to trade.

27. Brazil, Ecuador, Chile, Colombia, Costa Rica, Cuba and Venezuela supported Peru's concern and asserted that Regulation 238/97 constituted an unnecessary barrier to trade because it targeted products that were not widely traded in the EU market before 1997 without considering the history of safe consumption in other countries. Colombia regretted the EU delay in reforming this Regulation to bring it into compliance with WTO obligations. Brazil, Chile and Costa Rica reiterated their interests in developments regarding the reform of this Regulation.

28. The European Union recalled that at the last meeting it had provided a detailed explanation on the state of play of the Novel Foods dossier; it was now engaged in preparing a new legislative proposal on Novel Foods, expected to be adopted in 2013. The European Union would keep Members informed on the progress of the novel food negotiations, on future measures applicable to traditional foods from third countries, and would notify the new draft legislation to the WTO for comments. In order to help producers, importers and those responsible for placing products on the EU market a Novel Food Catalogue had been created, and a document indicating how interested operators may establish whether a food or food ingredient had a history of consumption in the European Union. The European Union remained committed to work with concerned partners towards an amicable solution of this matter.

(ii) *US Measures on Catfish (G/SPS/N/USA/2171) – Concerns of China (STC 289)*

29. China recalled that in March 2011, the United States notified a requirement for mandatory inspection of catfish and catfish products which included catfish regulation with that of terrestrial animal meat products. Aquatic animal products presented lower risks than terrestrial animal products, and China sought an explanation and risk assessment from the United States. Moreover, China hoped

that if the regulation were to be implemented, the United States would respect the traditional transitional period of 5 years considering China's developing country status.

30. The United States explained that the Food Conservation and Energy Act of 2008 mandated that catfish be regulated under the Federal Meat Inspection Act. A proposed rule for the inspection of catfish was notified to the WTO and comments accepted until 24 June 2011. The US Department of Agriculture was still reviewing the comments and would notify the adoption of the final rules for inspection of catfish before implementation. The United States would make every effort to minimize disruptions to trade once the catfish inspection program began.

(iii) EU Maximum Residue Levels of Pesticides (STC 306) – Concerns of India

31. India noted that this concern had been raised in the last six meetings but no solution had yet been found. The European Union continued to set MRL levels at the Limit of Detection (LOD) for pesticides such as Carbendazim and Isoprothiolane, without any scientific justification contrary to the provisions of the SPS Agreement. India reiterated its request for the European Union to provide scientific justification for fixing MRLs at the limits of detection without scientific evidence.

32. The European Union stated that trading partners must follow the EU procedure for requesting the setting of MRLs based on actual use of a pesticide. Where a pesticide was not used within the European Union or was unknown, the European Union set the MRL at the lowest analytical level rather than apply a zero tolerance approach, to give traders some legal certainty. Before setting an MRL for a pesticide, the scientific opinion of the European Food Safety Authority is sought on each occasion. The European Union reiterated that its legislation was balanced, non-discriminatory, based on sound scientific assessments and predictable. The European Union suggested that India provide a list of the chemical substances used in India that it considered were not harmful to human health, so that the same could be the subject of an EFSA risk assessment.

(iv) Vietnam's Ban on Offal (STC 314) – Concerns of the European Union and the United States

33. The European Union repeated its concern about the import ban on offal imposed by Vietnam. Vietnam had clarified that the ban was temporarily imposed due to food safety concerns and had lifted the ban on red-offal following bilateral discussions and confirmation that no problems were detected in offal imported from the European Union. However, the ban on white offal remained, and without a risk assessment. The European Union urged Vietnam to rapidly find a solution in order to lift the unjustified measure.

34. Australia, New Zealand, and the United States also noted that the existing ban on white offal was affecting their trade and requested Vietnam to lift the ban.

35. Viet Nam reiterated that this was a temporary measure to protect human health from harmful contaminants, toxins or disease-causing organisms in offal while it improved its human capacity to ensure inspection. Limitations of resources and human capacity had delayed the removal of the ban on white offals, however the issue was under consideration. Viet Nam appreciated the relationship with its trading partners and was willing to work with them to find an amicable solution.

(v) EU regulations on Cadmium in Cocoa (STC 325) – Concerns of Ecuador and Colombia

36. Ecuador explained that it had learned through the Directorate General for Health and Consumers (DG-SANCO) of the European Commission that new maximum levels of cadmium in food were being considered. A summary report of the Standing Committee on the Food Chain and Animal Health showed a clear discrimination between cocoa products and other food stuffs. The European Commission's proposal focused only on products for which no maximum levels existed;

but differentiated between chocolate and cocoa products on the one hand and vegetables and cereal products. For the latter products, due to concerns about costs, more time would be given to farmers and food business operators to put measures in place to reduce cadmium levels. This discriminatory treatment was arbitrary, unjustified, and disproportionate and could result in unnecessary restrictions to international trade. Ecuador requested that chocolate and cocoa products receive equal treatment as vegetables and cereals, to prevent any unjustified discrimination. Furthermore, if new cadmium levels were set, these should be based on an appropriate risk assessment, and comply with the WTO principles of proportionality, transparency and consideration of the special needs of developing countries.

37. Cameron, Colombia, Cuba, Dominican Republic, Jamaica, Mexico, Nicaragua, Peru, and Venezuela supported the concern by Ecuador, further noting that the EU measure would adversely affect the small and subsistence farmers and producers of cocoa in developing countries. The EFSA scientific opinion indicated that chocolate and cocoa products were not the main source of cadmium intake, however the major contributors of cadmium in the diet were not included in the proposed EU regulation. There was no Codex standard for cadmium nor agreed international analytical methods or procedures to determine the presence of cadmium, which made it difficult to compare the levels of cadmium in these foods.

38. The representative of the WHO indicated that the FAO/WHO Joint Expert Committee on Food Additives (JECFA) was scheduled to consider cadmium levels in cocoa at its meeting in June 2013. JECFA had issued a call for data, but not yet received any data from exporting countries regarding their controls on levels of cadmium in cocoa products, or information on cadmium levels at different processing stages.

39. The European Union acknowledged the concerns of exporting Members and noted that the discussions were still at the technical level with no maximum levels yet proposed. The proposal would initially focus on foodstuffs such as chocolate, cocoa products and baby foods, for which maximum levels did not yet exist, and at a later stage would review other food commodities for which maximum levels already existed. The meeting of the International Cocoa Organization (ICCO) in October 2012 had provided an opportunity for an exchange of views on the issue and the data provided by some Members on cadmium in cocoa products would be considered. The European Union was confident that a balanced proposal would result from the legislative process and that any negative effects would be kept to a minimum.

(vi) *China's Quarantine and Testing Procedures for Salmon (STC 319) – Concerns of Norway*

40. Norway reiterated its concern in relation to the testing and quarantine measures introduced by China in December 2010 and strengthened in February 2011. These measures posed serious challenges to Norway's trade of fresh salmon to China, as the quarantine measures implied that all consignments of fresh salmon would be tested and retained in custody awaiting the test results. The obligations under the SPS Agreement required that SPS measures be supported by a science-based risk analysis, not more trade restrictive than necessary and applied in a transparent manner. The measures applied to salmon from Norway appeared not to be proportional to the situation and Norway requested China to provide the risk analysis that supported the testing and quarantine measures. Norway recognized the communication between AQSIQ and the Norwegian Embassy in Beijing, but requested AQSIQ to agree to the request for technical consultations on this issue, in line with Article 5 of the SPS Agreement.

41. China observed that in recent years its inspection authorities had detected pathogenic germs and excessive veterinary drug residues in imported salmon. Based on the results of a risk assessment, Chinese experts were of the opinion that the importation of salmon, especially chilled, fresh and farm-raised salmon, posed a high food safety risk. In order to protect the health of Chinese consumers,

AQSIQ decided in early 2011 to further strengthen the inspection and quarantine of salmon imported into China from all countries. The relevant measures were based on existing laws and regulations and were not new measures which needed to be notified to the WTO. Norway was one of the main suppliers of salmon to China, however, Norway had failed to meet China's inspection requirements in recent years. In 2011, 24 cases of unqualified aquatic products from Norway were reported, of which 19 cases involved salmon. China remained committed to continue bilateral discussions with Norway and looked forward to further communication in relation to the Sino-Norway Memorandum of Understanding on SPS.

(vii) *Thailand's Restrictions on Table Grapes, Apples and Pears (STC 326) - Concerns of South Africa*

42. South Africa recalled that its exports of fresh fruit, particularly table grapes, apples and pears, had been stopped as a result of Thailand's new Plant Quarantine Act. The Act prohibited imports of certain fresh produce until a pest risk analysis (PRA) was completed. An interim provision allowed the entry of products imported to Thailand prior to the prohibition, pending completion of the PRA. Since its application to be recognized as an historical exporter had not been submitted within the first deadline, South Africa had sought to invoke this provision under the case-by-case approval process and had proposed certain minimum requirements until the PRA was completed. Despite this, South African fresh fruit, although historically exported to Thailand, was now excluded from the Thai market. Although South Africa had provided the information necessary to conduct the required PRAs, the Thai authorities had not indicated when the PRAs were likely to be concluded. Consultations at technical and diplomatic levels had been pursued over the past four and a half years, in order to resume trade under the interim provision for historical exporters to Thailand. Although South Africa welcomed the recently concluded agreement which allowed its exports of fresh citrus fruit into Thailand, it remained concerned that the ban on table grapes, apples and pears, as well as stone fruit continued. The ban had disrupted successful, safe fruit exports to Thailand, depriving South African producers and exporters of a growing market and limiting the choice of Thai consumers. South Africa urged Thailand to lift the ban, so historic trade could resume, and to conclude the required PRAs with urgency.

43. Senegal asked for information on the phytosanitary reason for this ban on table grapes and apples.

44. Thailand confirmed that the importation of certain fresh fruit and plants was prohibited under the Thai Plant Quarantine Act, until the national plant protection organization (NPPO) had completed a PRA. All of the relevant measures had been notified to the WTO. South Africa's request to export table grape and other fruits to Thailand was now in the PRA process by the Thai NPPO. The PRA process required different treatments of different pests, which could involve a lengthy technical discussion. Thailand's exports of fresh produce to South Africa, such as mangosteen and longan, were subject to a similar PRA process. Thailand indicated that it had approved the PRA for citrus from South Africa, allowing importation of citrus fruits. Thailand suggested that the NPPOs of both countries engage directly to find a mutually satisfactory solution to the issue.

(viii) *Indonesia's Port Closure (G/SPS/N/IDN/53, G/SPS/N/IDN/54 and CORR.1) (STC 330) – Concerns of China and the European Union*

45. China expressed concern with Indonesia's amended plant quarantine measures for the importation of fresh fruits and vegetables, which entered into force in June 2012 and was notified to the WTO in July 2012. The requirements included the accreditation of food safety and control systems and the designation of four ports – not including Jakarta's Tanjung Priok Sea Port - for entry of fruits and vegetables. The restriction on use of Indonesia's major trading ports would negatively impact trade with China, as 90% of Chinese fruit and vegetable exports entered Indonesia through

Jakarta. China had a long history of trade in fruits and vegetables with Indonesia and its regulatory system monitored risks from fruit and vegetable exports. China questioned the scientific justification for the measure, as the pests highlighted by Indonesia did not occur in China. The international practice was for the importing country to first strengthen its inspection system at ports of entry to ensure the safety of imported food and vegetables, before implementing a process to accredit the food safety control systems of the exporting country. China had submitted a formal application for accreditation of its food safety control system and encouraged Indonesia to schedule an inspection visit to review China's quarantine systems.

46. The European Union echoed China's concern with Indonesia's restrictive quarantine measures for the import of fresh fruits and vegetables, and fresh plant products in the form of fresh bulbs. At the last WTO SPS Committee, Indonesia had stated that it had addressed most of the issues bilaterally and had provided access to the main entry port of Jakarta to a number of countries based on country recognition. Only a limited number of countries had been granted preferential access to Indonesia, while other countries could only use a limited number of entry ports and remained excluded from using the main port in Jakarta. Despite bilateral discussions with Indonesia, EU exports remained unnecessarily blocked or exposed to higher costs, and Indonesia had provided no justification for these trade restrictive measures and the discriminatory preferential access. The European Union urged Indonesia to lift the unnecessarily trade restrictive measures and to implement measures in line with the SPS Agreement, including giving advance notification, so that comments of trading partners could be taken into account before trade disruptive measures were imposed.

47. Thailand echoed the concerns of China and the European Union, indicating that it was a major exporter of fruits and vegetables to Indonesia and that its exports had been negatively affected. Thailand requested Indonesia to remove the measure in order to minimize barriers and strengthen trade.

48. Indonesia recognized that the publication of its Ministry of Agriculture Regulation No 42/2012 and 43/2012 had raised concerns among some Members regarding the limitation of ports of entry for certain fresh fruits and vegetables, and fresh plant products in the form of fresh bulb vegetables. Indonesia had not closed its ports for the importation of horticulture products, but was seeking to prevent the spread of plant diseases and pests through effective management and regulation. Its largest sea port, Tanjung Priok, did not have appropriate facilities to implement quarantine measures such as the physical examination and detention of horticultural products. To prevent the spread of plant diseases and pests, and given the high volume of activity at Tanjung Priok, imports had been re-routed to other ports which had the requisite infrastructure. These ports were Belawan Sea Port in Medan, Makassar Sea Port, Tanjung Sea Port in Surabaya and Soekarno-Hatta International Airport in Jakarta. Indonesia was taking measures to improve the quarantine installation facility in Tanjung Priok, including by establishing an integrated system between the quarantine, customs and other relevant agencies; developing and improving existing infrastructure to accommodate imported commodities in the port area during quarantine inspections; and providing specifically for the entry and exit of containers. The first stage of this improvement programme should be finished by the end of 2013. These comprehensive steps were deemed necessary based on the results of an 2010-2011 assessment carried out by plant quarantine officials, which identified 15 exotic plant diseases that never previously existed in Indonesia. In most cases these plant diseases were found in horticulture products entering Tanjung Priok port. Indonesia remained concerned about the increasing number of interceptions that posed a serious threat to its plant and consumer protection.

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

49. The European Union observed that many trading partners continued to impose unjustified bans or restrictions relating to BSE, although some of these countries did not benefit from official BSE classification by the OIE as did the EU member States. The European Union urged Korea to

make tangible and predictable progress to bring its import conditions into line with the OIE standards. This request was particularly important as Korea had opened its market to other trading partners which had the same BSE status as EU member States. China was still keeping its market closed, claiming a lack of scientific information, although there was sufficient evidence regarding the EU BSE situation and also clear international standards. The European Union requested China to quickly proceed with pending market access applications and indicated its willingness to continue the exchange of technical information to deepen China's understanding of the EU animal and food safety system. The European Union welcomed the recent developments in Japan, where the risk assessment with regard to imports of beef had been submitted for public consultation. As a result of the scientific outcome, the European Union looked forward to beef exports being resumed in the near future. The European Union noted the recent steps taken in the United States and Australia towards bringing their requirements into line with the OIE standards, and urged all Members to fully align with the OIE standards and establish fair, non-discriminatory, transparent and science-based rules.

50. China indicated that the issues surrounding BSE were particularly sensitive and technical, involving not only the proper handling of animal health and husbandry, but also directly affecting China-EU co-operation and trade. China had provided thorough information to the European Union in relation to its scientific justification. Recognizing the importance of the issue particularly for exports from the Netherlands and Ireland, China had jointly organized co-operation activities with the European Union including technical exchanges among experts, seminars and technical visits. These exchanges focused on topics related to the science, technology and the OIE standards. However, no consensus had been reached on some issues. China would continue co-operation exchanges with EU technical experts in a scientific and pragmatic manner in order to solve the relevant technical problems. China had signed an MOU with Ireland for the establishment of a joint working group on BSE.

51. Korea indicated that it was actively engaged in bilateral discussions with the European Union, including discussions this same week, and would continue to have discussions with the European Union in this regard.

52. Japan reported that the risk assessment process was underway, specifically for beef from France and the Netherlands. Japan would continue close consultations with the European Union and its member States.

(x) *US Risk Analysis for the Import of Queen Bees (STC 301) – Concerns of Argentina*

53. Argentina expressed its concern about the delays by the United States in granting authorization for the importation of queen bees. Argentina had requested access to the US market in 2000 and had submitted all the information requested by USDA/APHIS in order to facilitate the pest risk analysis (PRA). It was not until 2004 that the United States requested further information, including the provision of the genetic characterization of Argentina's queen bees, which was submitted. In 2008, after three years of research, with the participation of laboratories from Spain, an ad hoc scoping study was presented which demonstrated the absence of Africanized bees and of parasitic exotic plagues in Argentina. In 2009, USDA/APHIS informed Argentina that the PRA of queen bees was not a regulatory priority and that it would not proceed with the assessment. This situation was inconsistent with Articles 5, 8 and Annex C of the SPS Agreement and Argentina was concerned that the information which it had submitted in a timely manner would no longer be valid when USDA/APHIS finally decided to consider its request.

54. The United States indicated that a number of factors had contributed to the declining health of honey bee colonies in the United States over the past few years. Some of the factors affecting honey bees included the introduction into the United States of several foreign bee pests and new diseases caused by viruses. For this reason, an effective level of security had been established to prevent the

introduction of foreign bee pests and diseases, which could rapidly spread throughout the United States. A science-based risk assessment procedure had been published for approval of countries' exports of bees, including from Argentina, to the US market. In compliance with the risk assessment procedure and based on changes in bee health and risks worldwide, the United States had requested technical information from Argentina on several occasions and letters were exchanged in 2011 and 2012. After reviewing the data, the USDA informed its counterpart SENASA in September 2012 that Argentina's request for access for bees could not be considered until further information and disease information was provided. There was no delay in the US PRA, but, as stated in September 2012, Argentina needed to provide information regarding the presence of diseases in Argentina's bee population and on the regulatory control of imports of honey bees into Argentina. The United States urged Argentina to quickly respond to this request for information in order to expedite their request and resolve the concern.

(xi) *Malaysia's Import Restrictions on Pork and Pork Products (STC 323) - Concerns of the European Union*

55. The European Union indicated that it had concerns with Malaysia's import restrictions on pork and pork products. In recent bilateral discussions, Malaysia had indicated that it had addressed some of the outstanding EU concerns and would continue to follow-up closely with the European Union to find a rapid and durable solution. The European Union welcomed the positive signal and would continue to engage in constructive dialogue with Malaysia, with a view to rapidly resolving the issue through a transparent import process in Malaysia that guaranteed sustainable trade.

56. Malaysia reported that bilateral discussions were on-going and that it hoped to find a mutual solution to the matter as soon as possible.

(c) Consideration of Specific Notifications Received

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

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

58. The European Union reported that its specific trade concern on Chinese Taipei's MRLs for Roasted and Powdered Coffee (No. 334) had been resolved following the publication by Chinese Taipei of a modified draft regulation, notified in G/SPS/N/TPKM/255/Add.1. The European Union thanked Chinese Taipei for its co-operation in resolving the concern. Chinese Taipei expressed appreciation for the EU intervention and the comments submitted by Members. Chinese Taipei had finalized the tolerance for Ochratoxin A in roasted and powdered coffee at 5 parts per billion (ppb). The standard had been in effect since 28 August 2012 and the WTO had been notified accordingly. Chinese Taipei wished to continue to collaborations with Members on SPS issues. The Chair congratulated the European Union and Chinese Taipei on the resolution of the concern and thanked them for informing the Committee. Members were encouraged to inform the SPS Committee on the resolution of trade concerns.

IV. OPERATION OF TRANSPARENCY PROVISIONS

59. The Secretariat recalled that it no longer produced paper copies of the contact lists of National Notification Authorities and National Enquiry Points, but electronic lists were constantly updated and available through the SPS Information Management System (IMS) (<http://spsims.wto.org>). The Secretariat no longer generated monthly summary list of notifications, as Members could generate such lists through the SPS IMS.

60. Interested delegates could subscribe to any one of three e-mail lists to receive information and documentation from the Secretariat. One public list received all unrestricted SPS documents; whereas the second public lists received all unrestricted documents other than notifications. The third list was for SPS delegates only, for transmission of restricted documents, communications from the Chair, faxes, room documents and other non-public documentation. Documents were provided through the various e-mail lists in the original language in which they were submitted by Members and translations of these documents were accessible through the SPS-IMS. The Secretariat highlighted the importance of Members submitting correct e-mail addresses for the appropriate contact lists in order to receive documentation from the Secretariat.

61. Members were reminded about available publications such as the Procedural Step-by-step Manual for SPS National Notification Authorities and SPS National Enquiry Points and the Compilation of SPS Committee Major Decisions. Both documents were available electronically from the SPS website or printed copies could be requested from the Secretariat.

(a) Report on Workshop

62. The Secretariat reported on the Workshop on Transparency which took place on 15-16 October. The programme of the workshop was in document G/SPS/GEN/1156/Rev.1, and the presentations from the workshop were available on the SPS website. A number of financial support programmes and special projects had made it possible for a considerable number of developing countries and LDCs to participate in the workshop.

63. The first day of the workshop included an overview of the transparency provisions in the SPS Agreement, with emphasis on the obligations and the benefits of transparency in promoting and maintaining market access. The Secretariat presented the information management system (SPS IMS) as a tool to help enquiry points and notification authorities keep abreast of new or modified SPS measures that could significantly affect their exports. Break-out sessions in English, French and Spanish permitted participants to use the SPS IMS system themselves. Participants were able to familiarize themselves with the different functions of the system and to search: (i) notifications; (ii) SPS documents; (iii) specific trade concerns; and (iv) enquiry points and notification authorities contact details. Suggestions on how to improve the system included simplifying the menu to make information searches more user-friendly.

64. The WTO Secretariat presented the Integrated Trade Intelligence Portal, a project that seeks to integrate WTO notification databases with a view to providing an overview of the impact of measures notified by Members (tariffs, SPS and TBT measures) on trade. Representatives of the CODEX, IPPC and OIE also presented the different sources of information available on their websites. This information covered areas such as transparency in the development of international standards, access to existing standards, and information on the status of countries with regard to pests and diseases.

65. The second day of the workshop focused on one of the obligations contained in the transparency provisions - the obligation to notify new or modified SPS measures. An overview of the level of implementation of the transparency provisions of the SPS Agreement was provided (G/SPS/GEN/804/Rev.5). The Secretariat also presented the online SPS Notification Submission System (SPS NSS), which was launched in June 2011 to: (i) to streamline and facilitate the process of submitting notifications; and (ii) help ensure completeness of the information provided in submitted notifications. As with the SPS IMS system, participants had the opportunity to use the SPS NSS system in hands-on sessions organized in English, French and Spanish. Participants used the SPS NSS test site to produce a fictional regular notification on the basis of provided.

66. Costa Rica and Morocco presented their national experiences in the use of the NSS. Among the benefits, they highlighted the simplicity of preparing notifications and the decrease in the processing time involved which, in the case of Morocco, sometimes took two or three months before the SPS NSS system was introduced. Costa Rica stressed that training at various levels was needed to ensure a successful implementation of the SPS NSS system. The practical difficulties encountered by the two representatives in using the system were also encountered by a number of other participants. These mainly related to: (i) problems with the system's language parameters; (ii) lack of any means of storing the information; (iii) challenges in moving freely from tab to tab; and (iv) coordination issues between the two categories of system users.

67. Participants in the workshop also discussed the possibility of introducing a function whereby each time a notification was sent to the CRN, a copy would automatically be sent to the missions. In addition, participants highlighted the need to provide LDCs with training in the use of the system. The Secretariat agreed to examine how it could address the improvements identified by participants with respect to both systems. A detailed report on the workshop was subsequently circulated as G/SPS/R/68.

68. The Secretariat encouraged all Members to use the SPS NSS. NNAs could request access codes for the SPS NSS by sending an e mail to the SPS Committee (spscommittee@wto.org).

69. Burkina Faso, Chile, Côte d'Ivoire, the European Union and Senegal expressed their appreciation to the SPS Secretariat for organizing the workshop, which had provided valuable and practical training on the transparency provisions of the SPS Agreement. Burkina Faso requested similar capacity building activities at the country level in order to ensure the dissemination of the information and tools presented during the workshop. Chile and Senegal suggested that additional time for the practical exercises could have been allotted.

70. The European Union shared with the Committee its experiences in using the SPS NSS and observed that the NSS is a user friendly application which enabled authorities and the WTO SPS Secretariat to work in a more efficient way, allowing users to fill in more accurate and complete notifications. In particular, it allowed for more transparency in the new system, as WTO Members had to clearly identify why, if applicable, the proposed legislation was not in line with one of the international standards. The European Union indicated that it would submit specific comments in writing to the Secretariat on how the NSS could be further improved, based on its experiences in using the NSS for more than a year. Chile similarly shared its experiences with using the NSS and encouraged other Members to do likewise. Chile echoed EU's observation that the new notification system made it easier to monitor the use of international standards, an issue mentioned in G/SPS/GEN/804/Rev.5.

71. Senegal thanked the European Union for the assistance received through the mentoring programme related to transparency, which had allowed Senegal to make much progress in moving forward with transparency issues. The European Union acknowledged the work carried out with Senegal under the mentoring programme and similarly conveyed its thanks to Senegal.

72. IICA expressed its appreciation for the workshop and observed that it was both valuable for countries as well as observer organizations. IICA recognized the efforts of the Secretariat to develop tools and systems to enhance the management of notifications and highlighted that organizations, such as IICA, could support the dissemination of information and capacity building on these issues. IICA looked forward to providing support in this manner. The African Union similarly indicated that it had benefitted from these training sessions and could assist in disseminating information.

73. Senegal welcomed the STDF Briefing Note 8 on Enhancing SPS Coordination at the Country Level - which focused on national coordinating mechanisms from an African perspective. AU-IBAR

was involved in bringing both the public and private sector together in the area of SPS. The African Union highlighted some of the difficulties it faced in establishing SPS committees and having them work effectively. Work continued through project activities to assist countries in implementing SPS committees and other national coordination initiatives.

V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

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

75. The Secretariat reported that the Committee on Trade and Development (CTD) Special Session (SS) had been looking at some of the long-standing proposals for special and differential treatment. Two long standing proposals related to the SPS Agreement. The first was a proposal with respect to Article 10.3 of the SPS Agreement which states that the Committee may grant to developing countries time-limited exceptions to provisions of the Agreement. The second proposal related to Article 10.2 of the SPS Agreement which indicated that where the appropriate level of protection allows Members to phase in measures, they should do so, and a Ministerial decision had been made indicating that in normal circumstances the phase-in of a measure should be at least six months. The Secretariat had been requested by the Chairman of the CTD-SS to attend an informal meeting of the CTD-SS Session to discuss these proposals.

76. The Secretariat alerted the Committee that these proposals were being considered actively, particularly the proposal on Article 10.3. A draft text had been put forward that could eventually result in a decision from the General Council or at the Ministerial Level that would instruct the SPS Committee to take prompt action on any requests for a waiver under Article 10.3. Additionally, the Secretariat had been requested by the Chairman of the CTD-SS to provide a report on how the SPS Committee had addressed other proposals for special and differential treatment, such as: (i) the decision in G/SPS/33/Rev.1 to create a process by which a Member can request special and differential treatment or technical assistance if it believe its exports are being adversely affected by an SPS measures; (ii) proposals which have been addressed by the establishment of the STDF and its operations; and (iii) proposals which have been discussed and addressed in document G/SPS/35.

VI. EQUIVALENCE – ARTICLE 4

(a) Information from Members on their Experiences

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

(b) Information from Relevant Observer Organizations

78. No Observer Organization provided any information under this agenda item.

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

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

(i) *Mexico – Information on several pest and disease issues*

79. Mexico reported on the various notifications that had been submitted to the SPS Committee in relation to various agreements declaring Mexico as a disease, or pest, free country, or territory. In this regard, Mexico noted G/SPS/GEN/1184 which declared Mexico as free of Avian Salmonellosis; G/SPS/GEN/1185 which declared Mexico as a zone free of Classical Swine Fever; and G/SPS/GEN/1189 and G/SPS/GEN/1190 which declared Tabasco and Coahuila, excluding the lagunera region, as zones free of the Aujeszky's disease. Mexico stated that the purpose of these

notifications were to providing certainty and to strengthen free trade and market access at the national and international levels for Mexican products. Mexico stated that in order to remain free of these diseases, it would maintain, as necessary, the on-going diagnostic, monitoring and preventative practices, in conformance to the national guidelines for epidemiological surveillance.

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

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

(c) Information from Relevant Observer Organizations

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

VIII. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from the Secretariat

(i) *WTO SPS Activities*

82. The Secretariat reported that since the last Committee meeting, six national SPS seminars had been held in the Philippines, India, Argentina, Chile, Mexico and Morocco; a workshop on the SPS transparency provisions was held on the margins of the SPS Committee meeting; and a regional SPS Workshop for English-speaking African countries was held in Ethiopia. A more general training on the SPS Agreement had been provided in the Advanced Trade Policy Course (in English) in Geneva; the Regional Trade Policy Course for Asia-Pacific countries in India; and the FAO workshop on "Providing Support to Capacity Building and Implementation of International Food Safety Standards in ASEAN Countries" held in Bangkok, Thailand.

83. The Secretariat provided an overview of the WTO SPS technical assistance activities scheduled for the rest of 2012, as identified in G/SPS/GEN/997/Rev.2. Two Regional SPS workshops were scheduled for Asia and Pacific countries, in Chinese Taipei; and for Central and Eastern Europe, Central Asia and the Caucasus, in Austria. In relation to upcoming National SPS Seminars, the Secretariat had scheduled three national seminars for Botswana, Burkina Faso and Zambia. More general training on the SPS Agreement would also be provided in the Advanced Agriculture course; the Short Trade Policy Course for Member countries of the Latin American Integration Association (ALADI); an AU-IBAR organized PAN-SPSO (Participation of African Nations in Sanitary and Phytosanitary Standard-setting Organizations) training of trainers workshop; and a workshop on Codex Alimentarius.

84. The Secretariat drew the Members attention to the 2012 Advanced SPS Course. This was the eighth consecutive year the Advanced SPS course (formerly "specialized SPS course") would be offered, this year in French. The course was attended by 24 participants, coming from developing and least-developed countries. The selection process was based on candidates' qualifications and working experience, consideration was given to candidates from countries which had not been represented in previous editions of the course. The participants of this course were present at the Committee meeting.

85. The Advanced SPS Course was a unique WTO training activity since it was not only focused on transmitting knowledge and awareness about the SPS Agreement and the SPS Committee, but also on identifying actions to address specific implementation challenges and opportunities at the national level. Throughout the course, each participant had to develop an action plan, which was expected to be implemented in their countries upon their return. The implementation stage was assisted and

monitored by coaches, as well as through a follow-up session nine months after the course. The course included the participation of representatives from Codex, IPPC, the OIE, the Advisory Center on WTO Law (ACWL) and ITC.

86. The Secretariat noted that the E-Learning Course on the SPS Agreement was available all year long, in the three WTO official languages. Further information on SPS Technical Assistance activities could be obtained on the WTO website (<http://www.wto.org/sps/ta>).

87. Argentina thanked the Secretariat for its participation and useful contribution in the Course on the Annexes to the Marrakesh Agreement concerning agricultural products as part of the Agri-Industry trade specialization in collaboration with the University of Buenos Aires with the support of the Ministry of Agriculture. Argentina also thanked Secretariat for the training provided on SPS and TBT notifications.

88. Chile thanked the Secretariat for the two SPS workshops held in Santiago, Chile in September. One of the workshops was a basic course while the second workshop was targeted at more advanced participants who were required to undertake the SPS e-learning course prior to the session.

89. Mexico thanked the Secretariat for the support and contribution provided in the workshop held in Mexico City in September, which was directed to government officials involved in SPS matters

90. Morocco stated that the WTO held on 18-19 September a national SPS workshop in Morocco. The workshop was possible thanks to the Belgian and Technical Cooperation Body (BTC) which help ensure that officials from outside the capital could take part in the event. The participants were provided with accommodation. The goal of the workshop was to provide SPS information to government officials and also to raise awareness among private entities on the importance of the SPS Agreement and on the impact of SPS measures on international trade. The workshop was attended by around 80 participants from the civil service, private sector and journalists. The workshop took place over two days and gathered significant media coverage. Morocco thanked the Secretariat for helping make the workshop a success and extended its thanks to the Belgium Development. Finally, Morocco called upon developing countries to develop this type of workshops emphasizing the benefits they represent, even to consumers who follow the workshops through newspapers.

91. Burkina Faso, spoke on behalf of the 24 participants of the ASPSP, and thanked the Secretariat for the opportunity to partake in the training as it would help them strengthen their national expertise. Burkina Faso also thanked the Secretariat for the workshop that would be held in November 2012.

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

92. The STDF Secretariat provided an update on STDF Activities since the last Committee meeting and highlighted some of STDF's planned initiatives (G/SPS/GEN/1193). The STDF organized, in collaboration with the IPPC Secretariat and the OIE, a seminar on International Trade and Invasive Alien Species (IAS) in Geneva on July 2012. The seminar was attended by more than 100 participants. The seminar provided an opportunity for focused discussion on IAS and international trade between the SPS community and stakeholders involved in the Convention on Biological Diversity (CBD); and to raise awareness about the mutually supportive objectives of the WTO SPS Agreement and the contribution of effective SPS control systems to help protect against the entry of harmful species, including pests, diseases and other IAS. Participants agreed on conclusions and specific actions to improve the management of trade-related IAS. One of the key conclusions was that measures to prevent the entry, spread and establishment of IAS via trade, that aim to protect

human, animal and plant life or health or territory, fall within the scope of the SPS Agreement and should abide by its provisions.

93. On capacity building activities, the STDF co-organized a meeting with the African Union Commission on regional SPS coordination and capacity building in Africa; the workshop was attended by 24 participants from Regional Economic Communities (RECs) (COMESA, ECOWAS, IGAD and SADC), three STDF partners (FAO, OIE and WTO) and AUC, AU-IBAR and AU-IAPSC. The meeting provided an opportunity to discuss the role and function of the AUC, its technical offices and the RECs in adding value to SPS coordination and capacity building initiatives at the continental, regional and national level. The STDF presented the findings and conclusions of the 2010 STDF study "Regional SPS Frameworks and Strategies in Africa" while the RECs and AU technical agencies presented their on-going and planned SPS initiatives and programs. The meeting brainstormed on the establishment of a Continental SPS Working Group and discussed its potential terms of reference.

94. The STDF has had a continue collaboration in various other activities and initiatives to share experiences, promote synergies, and enhance coordination. For instance, the STDF contributed to various events, in Africa and elsewhere, providing training, highlighting experiences and good practice and sharing information about STDF's work.

95. The STDF provided information on the Multi-criteria Decision Analysis Tool, a decision-support tool to help inform SPS decision-making, specifically the prioritization of SPS capacity building options or investments to address particular SPS issues or problems affecting the flow of specific products into particular markets. The MCDA looks at SPS problems and impacts of investments for trade, domestic agri-food sector, socio-economic impacts, etc. Following the initial two STDF-supported applications in Africa (Mozambique and Zambia), work was underway, in collaboration with COMESA, to use the framework in other African countries. Belize had recently applied this framework with the support of the STD while work in Viet Nam was currently under way to use the MCDA Tool. The STDF has organized a MCDA workshop for Asia and Pacific Region that would be held in Bangkok, Thailand on 12-13 November. The objective of the workshop was to increase knowledge about the MCDA Tool and its use to prioritize SPS capacity building needs; provide practical skills to enable participants to apply the MCDA Tool in their countries and use the associated computer software; and to obtain feedback to further improve the MCDA Tool. The STDF will fund the participation of 30 participants.

96. The STDF stated that the STDF working group approved the STDF working plan for 2013, in line with the STDF's medium-term strategy (2012-2016). In addition to the on-going activities, new work will include one key activity on trade facilitation. This new activity would focus on enhancing understanding among SPS practitioners and staff of customs authorities in developing countries about the role of SPS agencies in trade facilitation, and on identifying key needs, opportunities and good practices to enhance the effective engagement of SPS agencies in collaborative border management. The activity was expected to comprise a regional research in Africa, Asia and the Pacific, and Latin America and the Caribbean to identify, analyse and document examples of how SPS agencies were working together with customs and other border agencies, and the publication of three regional reports; publication of a synthesis study analysing available experiences, good practices and lessons learned, and recommendations to promote and enhance the role of SPS agencies in collaborative border management; and, based on additional discussions, it may also organize a global-level event on SPS and Trade Facilitation in 2013 to raise awareness on the role of SPS agencies in trade facilitation, and present and discuss the findings and recommendations of the regional research work.

97. A study on the spill-over effects of trade-related SPS projects and programmes on the domestic food safety situation in developing countries would be soon implemented by the STDF in close collaboration with the FAO and the WHO. The Study aims to draw key lessons to improve the

design and delivery of future trade related technical assistance programmes. It would include an open call for relevant projects and programmes to be analysed during the course of this work.

98. The STDF stated that its virtual library would be launched in November 2012 on the STDF website. It would be a central repository containing SPS-related electronic documentation, including SPS needs assessments, action plans, training materials, evaluations of projects funded by the STDF and other donors, research papers and articles from various publishers and sources. The library intended to enable STDF Secretariat to better manage information and to assist beneficiaries and others involved in the implementation of SPS-related capacity building initiatives. Members were encouraged to share documents related to SPS technical cooperation and capacity building for inclusion in the Virtual Library.

99. The STDF noted that the latest STDF working group had approved three projects and one project preparation grant (PPG). The projects approved were: (i) African Pesticide Residue Data Generation Project: Strengthening regional capacity to meet pesticides export requirements based on international standards; (ii) "CocoaSafe", Capacity Building and Knowledge Sharing in SPS in Cocoa in South East Asia; and (iii) Training of Phytosanitary Capacity Evaluation (PCE) Facilitators. The approved PPG related to Capacity building for aflatoxin management and control in groundnuts in Malawi. Additionally, the STDF working group approved, conditionally, one PPG with SADC to promoting the effective participation of SADC Member States in the WTO SPS Committee.

100. Finally, the STDF noted that LDCs and developing country Members were eligible to apply for STDF funding. The STDF aimed to devote at least 40% of the STDF resources for projects and PPGs to LDCs, other middle income and upper middle income Members were also welcome to apply; Members at a higher state of development would be required to contribute with a higher percentage of the cost of the project. STDF reminded Members that full details on eligibility criteria and the types of requests most likely to be supported could be found in the STDF website (<http://www.standardsfacility.org>).

101. Malawi stated that the submission of the PPG, approved by the STDF working group, was the result of the application of the MCDA tool which identified various SPS priorities areas, among which aflatoxin management was included. Malawi thanked the financial assistance from the USAID, and the support from the STDF.

102. Belize thanked the STDF for the approval of the project grant that has yielded positive results. Belize stated that other ministries at the national level were looking positively to the results of the tool. Belize also thanked the STDF for the invitation to be able to share Belize experiences at the regional workshop to be held in Asia Pacific.

103. The African Union thanked the STDF for allowing the African Union to have a capacity building strategy, done in collaboration with CABI in Nairobi. Further collaboration with the STDF was being explored by the African Union.

104. ECOWAS thanked the WTO for inviting ECOWAS to the recent WTO STDF technical assistance activity in Ethiopia, in which it learned about the MCDA framework. ECOWAS expressed interest in working with the STDF to use this framework for the region. ECOWAS also reported on several workshops conducted on the region on the sanitization training of trainer workshop for member countries which focus on science based methods in standard setting and in agricultural trade negotiations, some of them conducted in collaboration with AUIBAR under the PAN SPSO project. In order to improve coordination of SPS Activities, ECOWAS conducted workshops of the regional consultative committee on SPS standards, leading to the development of a triennial work programme. ECOWAS also reported on the mainstreaming of SPS activities in the ECOWAS agricultural policy, which is the main policy for implementing agricultural activities in the region.

105. COMESA thanked STDF for the support provided in various technical activities, particularly in applying the MCDA tool which helped many countries to received bilateral support from other partners. COMESA also thanked the United States and the United Kingdom, through the DFID, for the support provided following the application of the MCDA tool. Additionally, COMESA thanked the Committee granting COMESA observer status, and stated that in the future COMESA should be able to report on specific SPS activities carried out by COMESA's membership.

(b) Information from Members

106. Pakistan highlighted the importance of global cooperation in the area of technical assistance. One example was stem rust, an old disease that had affected all wheat producer Members in one way or another. In the 1950's, this disease destroyed wheat fields in North America and other parts of the world, however effective collaboration among global research systems, donors' long-term commitments and national research and commodity programmes led to the development of resistant varieties as well as to higher productivity. The disease was dormant for a long time, however a recent discovery Ug-99 in Africa had caused Members to become more active on this issue. If funding on this disease had not been reduced to half in the late 1970s and early 1980s, it would have been possible to detect Ug-99 earlier, providing a longer lead period to develop a resistant variety. Since the Ug-99 discovery, institutions like ICARDA, CIMMYT, FAO and the Borlaug Global Rust Initiative (BGRI) were working actively to come up with resistant varieties. Ug-99 could be a threat to world wheat production as it was predicted to spread to Yemen, then to the Middle East and subsequently to central and south Asia. In view the risk to food security, Pakistan had screened its wheat germplasm against the disease and had released resistant varieties during recent years through breeding programmes with the help of BGRI, CIMMYT and ICARDA. Pakistan highlighted the need for IPPC to play an active role in the surveillance of the disease, including building the capacity of NPPOs, strengthening the breeding capacity of developing countries, human resource development, institutional collaboration, university linkage programmes, and access to scientific knowledge and laboratory data. Timely allocation of resources to research and development and surveillance systems in developing country Members would help small farmers cope with the needs of changing seeds; one report indicated that the next decade would bring a complete change in the type of seed required for wheat.

107. India thanked Pakistan for its efforts to find disease resistant varieties and tackling of Ug-99. Pakistan's paper provided good basis for requesting technical assistance from standard-setting bodies to bring these disease resistant varieties to developing countries. India endorsed the recommendation that IPPC play a greater role in tackling this particular disease. Turkey also supported Pakistan's recommendation with regards to cooperation on this disease.

108. IPPC acknowledged that pest reporting was relatively weak under the IPPC. There were many more pests compared to animal diseases, and the IPPC was trying to identify the top ten pests in terms of importance. Surveillance was a major topic of the IPPC implementation review and support system (IRSS), which aimed at analysing the real need for the implementation of IPPC standards. Following various surveys and regional workshops, the Asian Pacific Plant Protection Organization would host a meeting, funded by Korea, where the issue of surveillance would be intensively discussed.

109. Australia stated that in response to G/SPS/W/101, it had updated its report on SPS-related technical assistance. Australia's SPS-related technical assistance has been primarily aimed at helping developing country Members adjust to, and comply with, SPS measures in their export markets. It also assists developing country Members improve their capacity to develop and implement their own SPS measures based on science. The SPS-related technical assistance given by Australia between July 2009 and June 2011 was over 37 million Aus\$, benefitting 42 developing countries. Full details of this assistance may be found in G/SPS/GEN/717/Add.3.

110. Canada reported that during 2011 it implemented a total of 18 SPS technical support projects, in a variety of geographical regions including Latin America, the Caribbean region, Central Asia and the Asia-Pacific region. Canada committed 2.2 million Can\$ to these projects. Canada was contributing five million dollars over the period of 2011-2014 to the STDF to support its coordination of international SPS activities and SPS capacity building in developing and least-developed country Members. More detailed information can be found in G/SPS/GEN/1196.

(c) Information from Observers

111. IPPC reported on the establishment of its Capacity Development Committee (CDC), and on the STDF-funded project for the development of global phytosanitary manuals, standard operating procedures and training kits. The IPPC phytosanitary resource page (<http://www.phytosanitary.info>) provided access to resources developed by the world's plant protection community, reviewed and approved on the basis of criteria developed by the electronic working group on Capacity Development. Two databases were available to the NPPOs and RPPOs on this resource page; one on projects (global phytosanitary capacity development projects database) and the other one on activities (global phytosanitary capacity development activities database). E-learning courses were also available through this page. IPPC supported and/or attended eight regional workshops focusing on the Online Commenting System (OCS) and the implementation of standards. A quick start guide was available through the top page of the OCS, and any NPPO could request assistance on the OCS to the IPPC secretariat. More details are available in G/SPS/GEN/1203.

112. Codex highlighted some technical cooperation activities supported by the Codex Trust Fund, in addition to various projects on food safety and updating legislation and food control systems (G/SPS/GEN/1206). Codex activities related to the participation of countries in the standard setting process, including the organization of a number of workshops carried out in collaboration with various Codex coordinating committees (e.g., North America and the South West Pacific, Europe, Asia and Central Asia). The Codex trust fund in collaboration with the Committee on Food Hygiene (CCFH) initiated a pilot project during the revision of the principles for microbiological criteria, to encourage collaboration between countries with more experience and those with less experience to develop concrete examples how to apply microbiological criteria. Additional information on the work of each of the Codex coordinating committees could be found in the Codex website.

113. OIE indicated that over 60% of OIE members have had Performance of Veterinary Services (PVS) evaluation missions, as reported in G/SPS/GEN/1198. A significant number of the PVS missions have been followed-up with PVS gap analysis missions and PVS legislation missions. OIE continued to develop and refine the evaluations and assessment tools and would shortly publish the sixth edition of the OIE PVS tool. A separate PVS tool for the evaluation of aquatic animal health services would be available on the OIE website once finalized.

114. IICA noted the 70th anniversary of IICA. In September 2012, IICA held regional meetings in Latin America and the Caribbean to consider proposed phytosanitary standards to be considered by the CPM in 2013. There had also been meetings to coordinate regional positions in support of the Codex Coordinating Committee of Latin America and the Caribbean (CCLAC). Assistance was provided to strengthen the national Codex committees in Costa Rica, Ecuador, Peru and Uruguay and the United States funded a programme to promote the participation of the Americas in Codex committees for 2013. The Inter-American Coordination Group for Plant Health (GICSV) - which included the regional plant protection organizations of the American continent (NAPPO, OIRSA and COSAVE) - was being reactivated. IICA provided technical assistance for a second round of meetings of the Central American Customs Union (UAC) SPS Committee. An internally funded IICA project created a virtual school for phytosanitary inspectors in South America, following the model of the regional food inspection school organized in Central America with STDF funding. In July, the four-year project creating an epidemiological surveillance network in the Caribbean

concluded. This project, funded by the USDA/APHIS with the participation of CIRAD and CaribVET, covered nine countries and provided training for epidemiologist and para-epidemiologists, strengthened veterinary services, and ended with a simulation exercise on responding to animal health emergencies with the participation of 14 countries and territories. Additional information can be found in G/SPS/GEN/1195.

115. ITC reported on an EIF project in Gambia to address food safety and quality issues and the technical barriers hindering market access for Gambian exports of ground nuts, cashew nuts and sesame. ITC was implementing a project in Senegal, under the Netherlands trust fund, to create a competitive and sustainable value chain for mango exports to Europe, including compliance with GlobalGAP requirements, prevention and control of fruit fly infestations, training on good cold chain practices, and analysis of pesticide residues. In Nigeria, ITC was supervising an STDF-funded project to expand exports of sesame and shea butter, including construction of seven sites with processing machines. A guide on EU market access conditions for pasta and flour, and a study on the quality and SPS infrastructures for flour and pasta exports from Belarus, Kazakhstan and Russia were under development as part of the CIS regional trade development project. A project in Peru sought to enhance the competitiveness of small enterprises through compliance with food hygiene and safety requirements in international markets. ITC launched a non-tariff measures survey in Indonesia, one of the largest NTM surveys carried out so far as part of the global NTM project. ITC's Standards Map allows users to compare private standards with regards to, for example, social, environmental and economic criteria, geographic and product-related scopes, compliance policies and requirements for implementation. A paper series on the impacts of private standards on global value chains (part 1), on the producers level (part 2) and on the interplay of public and private standards (part 3) were recently published and are available at: <http://www.standardsmap.org>. The World Export Development Forum, held in Indonesia, focussed on inter-regional trade between the ASEAN region, Latin America and Africa. More details can be found in G/SPS/GEN/1205.

116. The African Union (AU) conveyed gratitude for being granted observer status, which would enable it to strengthen continent-wide coordination and provide support to AU member states and the African regional economic communities. A series of regional and national workshops focused on improving the efficiency of participation of African nations in the activities of the Committee and in adoption of international standards. The beneficiaries of the workshops were experts on animal and plant health and food safety; there was also increased participation from the private sector and SPS focal points and notification authorities. AU established an SPS cluster to coordinate SPS matters with the technical offices. A continent-wide SPS working group was developed to mainstream SPS issues in the comprehensive African Agricultural Development Program Implementation and the process of creating a food safety authority was underway. More details in G/SPS/GEN/1201.

117. OIRSA provided information on the various activities relating to training, technical assistance and dissemination of topics related to agricultural health and trade; support to the process of harmonization and equivalence; support in regionalization; and strengthening of national institutions to facilitate trade. More details in G/SPS/GEN/1200.

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

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

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

118. The Chairperson reported on an informal meeting on ad hoc consultations held in the morning of Wednesday, 17 October. In this meeting, she first provided a brief overview of the Committee's discussions to date on the development of a procedure that would provide more clarity and

predictability when requesting the Chairperson's good offices to help Members resolve SPS-related concerns.

119. The Chairperson had reminded Members of the discussions in the July informal Committee meeting, where, rather than discussing the third revision of the draft text prepared by the Secretariat, the interim Chairperson had asked the Committee to focus the discussions on five unresolved elements impeding progress in the work. That was what the Committee had done. In her summary of the informal meeting, the interim Chairperson had identified some areas where convergence seemed possible, and requested that the Secretariat circulate a revision 4 of document G/SPS/W/259 based on the Chair's summary.

120. At this week's informal meeting, the Chairperson had recalled that Revision 4 had been circulated in August, with a 17 September deadline for comments, and that the Secretariat had received 15 sets of comments from Members. Some of these comments were quite extensive, and often going in opposite directions. In light of this, the Chairperson had asked the Secretariat **not** to issue a revision 5 of the document as this could bring the Committee backwards significantly. Instead, the Secretariat had produced a compilation of comments which was made available to all delegates as a room document.

121. Following this overview of the process, the Chairperson had reported on the consultations held earlier this week with those Members who had submitted comments on G/SPS/W/259/Rev.4, on the best way to advance this issue.

122. Everyone at the consultations had agreed that revision 4 of document G/SPS/W/259 should be the basis for further work, and that any changes to this document would have to be agreed by the Committee. Also, all agreed on the need to find a way to advance this work more rapidly than just discussing at each Committee meeting, only three times per year.

123. In relation to how to move forward, the Chairperson had highlighted four options that were identified in the consultations as a way to fast track the work:

- (1) have intersessional meetings in Geneva to discuss the subject;
- (2) establish an electronic working group;
- (3) hold meetings a couple of days before Committee meetings, when capital-based experts are present in Geneva; and
- (4) combine the last two options, working electronically between Committee meetings and holding informal meetings or consultations on the margins of Committee meetings.

124. After consulting with Codex and IPPC to learn about their experience with electronic working groups, the Chairperson had recommended that to move the process forward with Option 4, that is forming an electronic working group (e-WG) which would work in between Committee meetings, and hold informal meetings prior to the next Committee meeting. Although some Members had preferred other options, delegates had said they were ready to move forward with the suggested approach.

125. In order to have an effective e-WG, the Chairperson had invited Members to volunteer to act as "stewards" on each of the five identified outstanding elements. This proposal had received support, and the Chairperson had suggested to allow the five "stewards" to decide among themselves who would manage each of the five outstanding elements. The stewards used the time remaining at the end of the informal meeting to meet and plan their organizational work.

126. The stewards back on their preliminary discussions and suggested the following assignment of the five outstanding elements:

- (1) The mandatory/voluntary nature of the procedure - **Switzerland**;
- (2) Issues of transparency/confidentiality - **Brazil**;
- (3) The role of the facilitator – the **United States**;
- (4) Timeframes for the procedure - **Argentina**; and
- (5) Relationship with NAMA/other initiatives - **Pakistan**.

127. In addition, New Zealand and Canada signalled their willingness to be "co-stewards" of the process.

128. Regarding the composition of the Working Group, Members had shared the view that this e-WG should be open to all Members and the Chairperson had invited Members who were interested in working electronically to submit their e-mail address to the Secretariat (spscommittee@wto.org) **by the end of October**.

129. Only one email address per Member would be accepted. Otherwise, if the stewards were to receive comments from several officials representing one Member, it would be difficult to determine the Member's official position. Of course, the person who received the messages from the working group could circulate them internally to other interested colleagues. Members should inform the Secretariat of any subsequent changes to the e-mail address.

130. Since the delegates acting as stewards would play a neutral facilitating role, a second email address should be submitted to represent that Member's position.

131. All Members who indicated an interest in the e-WG would be included on an email list that would be distributed to all five stewards on 1 November. All Members thus had the opportunity to participate in all the five topic areas, with the work proceeding in parallel. At the informal meeting, Members seemed to be in agreement with this approach.

132. Each steward should determine the language in which she or he would manage the process and liaise with the e-WG Members. The Secretariat had indicated that it could assist with translation of comments and proposals, if requested. There seemed to be agreement among Members on this issue.

133. The deadlines suggested for the proposed process were as follows:

- (1) Members who were interested to be part of the electronic working group should submit one e-mail address to the Secretariat by **31 October 2012**;
- (2) The Secretariat would provide to the stewards the email list of interested Members on **1 November 2012**;
- (3) The five stewards would submit to the Chair, through the Secretariat, the proposed compromise text on their particular issue no later than **15 January 2013**;
- (4) These proposed compromises would be circulated to all members of the e-WG for the opportunity to provide comments no later than **15 February 2013**.

134. The Chairperson had highlighted that following on this e-WG process, the next step would depend on the comments received. If there seemed to be a clearly emerging consensus on compromise texts, the Secretariat would be asked to prepare a Revision 5 of G/SPS/W/259. However,

if the comments indicated significant differences of views, then the Secretariat would instead circulate a compilation of the comments received, for further discussion.

135. The Chairperson also suggested that a few days prior to the March meeting, she would hold another open-ended informal meeting and hoped that the Committee would then be in a position to finalize the procedure based on the compromises crafted by the stewards.

136. Following the Chairperson's oral report, some Members suggested that guidelines be provided to steer the operations of the working groups and that these be shared with the Committee. The Secretariat agreed to send the working procedures agreed upon by the stewards. The Committee agreed to proceed as proposed.

X. MONITORING OF THE USE OF INTERNATIONAL STANDARDS

(a) Proposed Revision to the Monitoring Procedure (G/SPS/W/268)

137. The Chairperson recalled that at the previous meeting, Argentina submitted a proposal to revise the monitoring procedure (G/SPS/W/268). Some Members had requested more time to consider the proposed modifications.

138. Argentina indicated that the aim of the proposal was to ensure that the reports adopted by the Committee on the monitoring of the use of international standards better reflect the actual importance of the international standards. The proposed modifications to the procedure in G/SPS/11/Rev.1 would enable the Secretariat to include in the annual report, unless the submitting Member requested otherwise, the issues that have been raised under the agenda item on Specific Trade Concerns when these related to non-use of international standards or the absence of existing standards.

139. In support of Argentina's proposal, Chile noted that at the Transparency workshop held earlier in the week, the Secretariat demonstrated that it was possible while notifying a measure using the online notification system, to indicate any deviation from the existing international standards. Chile observed that more than 57% of notifications did not indicate any international standards, even in cases where the standards existed. The notification system could be further developed to make it another tool for monitoring harmonization.

140. While Canada agreed that the procedure to monitor international harmonization could be improved, it was a Member's right to identify problems related to deviation from international standards and raised them either as "Specific Trade Concerns (STCs)" or under the agenda item "Monitoring the use of International Standards".

141. The Chairperson noted the lack of consensus on the proposal by Argentina and suggested that this be discussed again at the next Committee meeting. Bilateral discussions amongst Members on the subject matter was encouraged.

(b) New Issues

(i) Importance of International Standards and Adoption – Concerns of the United States

142. The United States encouraged all Members to promote the use of international standards in their national SPS programmes and to actively participate in the on-going work of the three standard setting bodies recognised under the SPS Agreement. The work in progress included the OIE's General session in May 2012 where 29 standards were adopted by the Terrestrial Animal Health Code Commission; and the Codex Commission's adoption of a large number of standards, including

maximum residue limits for the veterinary drug ractopamine. International standards were critical for ensuring safe food for consumers and facilitating trade.

143. Brazil, Canada, Chile and Paraguay also stressed the importance of international standards. The international standards setting bodies needed to be inclusive to achieve harmonization. By participating in the work of the ISSBs and ascribing to these international standards, Members would contribute to minimizing diverging requirements.

144. Benin, Burkina Faso and Morocco recognized the importance of the standard-setting bodies, and noted the problem faced by developing countries in conducting risk assessments in the absence of standards. An appeal was made to speed up the process of standards setting, especially where there is a need for specialist / technical knowledge, and to support developing countries in producing local exposure data for conducting risk assessment. Burkina Faso urged the renewal and increase of the Codex Trust Fund in order to support developing countries in the adoption of international standards.

(c) Issues Previously Raised

145. IPPC reported on its Implementation Review and Support System (IRSS) (G/SPS/GEN/1204). The IRSS system provides a help desk to address specific issues identified by member countries.

146. Codex indicated that it did not have a specific system of monitoring like the IPPC, but regularly gathered information on how Codex standards were being used, the needs of Member countries and/or why standards were not being used in certain regions. Codex used a regular questionnaire for this monitoring process. The Codex trust fund initially had the objective of ensuring effective participation and addressing the issue of generation of data to ensure risk assessments were based on data gathered throughout the world. The Trust Fund was financing pilot projects relating to food hygiene and food safety as part of the capacity building on the regional and sometimes national level.

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

(a) Report on the Informal Meeting

147. The Chairperson reported on an informal meeting on SPS-related private standards held on 17 October 2012. At the informal meeting, the Chairperson had recalled that the Committee had agreed to develop a working definition of SPS-related private standards in order to set the framework within which it would discuss the issue. Agreed Action 1 (G/SPS/55) did not propose a legal definition, but merely sought a framework to limit the scope of issues considered by the Committee.

148. The Chairperson had also recalled that following the first round of discussions on a working definition of SPS-related private standards in March (document G/SPS/W/265), a first revision of the proposed definition had been prepared for consideration at our July informal meeting. The Secretariat had subsequently prepared a second revision of document G/SPS/W/265 to reflect the comments made in July, for consideration at this informal meeting.

149. The Secretariat had introduced the revised draft working definition in G/SPS/W/265/Rev.2 and highlighted the additional sets of brackets in the text. In light of the lack of progress towards agreement on a working definition of SPS-related private standards, the Chairperson had invited the Committee to step back from the current draft definition and explore new options on how to define what we are talking about.

150. Canada had proposed a new definition, which had prompted a very fruitful exchange of new ideas. Chile had also suggested a new text for a working definition, while several Members had suggested some modifications to one or both of these new proposals.

151. Some Members had suggested creating a working group to try and reach agreement on a definition. The Chairperson had noted that the recommendation for a working definition had emanated from the previous ad hoc working group and despite this fact, coming up with a definition still required substantial discussions.

152. As requested in the previous informal meeting, the Secretariat had reported that while there was relevant WTO jurisprudence on the definition of private and public bodies, there was no existing WTO jurisprudence on the definition of private or non-governmental entities.

153. The Chairperson had concluded the discussion by requesting the Secretariat to circulate electronically to Members by mid-November the existing WTO jurisprudence on the definition of a private body. Members had also been invited to submit to the Secretariat written suggestions on new texts for a working definition of SPS-related private standards by 21 December. The Secretariat would then circulate a compilation of the suggestions received by 31 January, for discussion at the March 2013 informal meeting.

154. Under Action 3, the Secretariat had reported on relevant developments on SPS-related private standards in other WTO fora, including (i) the publication of the 2012 World Trade Report which focused on TBT and SPS measures, (ii) a session on Non-Tariff Measures at the WTO Public Forum, and (iii) discussions on private standards at the October 2012 STDF Working Group meeting.

155. Chile had noted the importance of increased awareness of the operations of private standards-setting organizations, and flagged that both Codex and OIE were exploring ways to work with private standard-setting bodies.

156. Regarding the implementation of Action 4, the European Union had noted that dialogue took place on an on-going basis with organizations involved in developing private standards. The European Union highlighted its view that private standards-setting bodies were becoming increasingly aware of the concerns faced by certain producers in meeting private standards and were adapting their practices to better facilitate trade flows. The European Union had also noted the changing nature of private standard-setting bodies, becoming more responsive to the needs of exporting countries in relation to private standards.

157. The IPPC had encouraged Members to flag any concerns related to private standards in the area of plant health, although such types of standard had not yet been identified in that area. The representative of the OIE had confirmed that OIE kept communications open with private standards-setting bodies to ensure that they followed the international standards set by the OIE.

158. Some Members had suggested that action 6 should be adopted as recommended by the ad hoc group report and flagged the importance of exchanging information on private standards in the SPS Committee. However, other Members, particularly New Zealand and the United States, had reiterated that any exchange of information on private standards should be outside the formal and informal sessions of the SPS Committee.

159. Regarding outstanding Actions 7 to 12, some Members had noted that work on developing a working definition of SPS-related private standards should not preclude continuing work on the outstanding actions, and that they should be kept on the agenda of our informal meetings. Other Members had stated that there was no consensus on Actions 7 to 12 and that they were not prepared to work on those actions at this time.

160. Belize had noted that the data gathered for the recent application of the Multi-Criteria Decision Analysis framework in Belize had shown that every single product being exported by the private sector was now being affected by private standards. Belize, along with several other Members, had asked that the Committee keep working on the outstanding actions to try and reach consensus.

161. In commenting on the report of the Chairperson, Kenya noted that in reality, private standards influenced the way every day business operated and recommended that the texts be renegotiated and concluded.

162. The Chairperson proposed that an informal meeting to discuss this agenda item be organized within the margins of the March 2013 meeting.

XII. REQUESTS FOR OBSERVER STATUS

(a) Information from Observer Organizations

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

(b) Report of Informal Meeting (G/SPS/GEN/1157)

164. The Chairperson reported on a closed informal meeting on observers held on 16 October. This was a sequel to the first informal meeting on 9 July, where the Committee had held a fairly general discussion on the role of observers, and in particular on the role of the Three Sisters, on the basis of the Secretariat's background document (G/SPS/GEN/1157) and the Chile-US proposal (G/SPS/W/267). Members had been invited to submit comments on the two documents, or on the role of observers more generally, before 17 September.

165. Comments had been received from Argentina, Japan and New Zealand and had been circulated electronically on 2 October 2012. The Chairperson had also drawn attention to a document from the OIE, circulated as G/SPS/GEN/1197, regarding how it viewed its role in the SPS Committee. The Chairperson proposed that the Committee discuss: (1) the role of observer organizations, and the criteria for granting observer status; (2) the role of the Three Sisters; and (3) outstanding requests for observer status.

166. On the role of observer organizations and the criteria for granting observer status, Members had been reminded of the chronology of relevant decisions and guidelines adopted by the General Council and by the SPS Committee in deciding on requests for observer status. Pending any further developments on the role of observers, there had been considerable agreement to consider outstanding requests on a case-by-case basis while ensuring non-discriminatory treatment of applicants within similar categories - for example, regional technical bodies.

167. Members had also shared the view that observer organizations not attending the Committee's meetings during a one-year period should first be advised and asked to confirm their interest in maintaining their observer status before applying the General Council guidelines on the ceasing of observer status.

168. There also seemed to be wide spread agreement that the role of observer organizations was to provide information regarding their standards, relevant activities and capacity-building work, but not to voice an opinion on the SPS measures applied by any Member.

169. On outstanding requests, some Members had indicated that they needed more time to consider the request and background document of the Intergovernmental Authority on Development (IGAD),

which had been submitted since the last meeting. There had been no consensus to consider granting ad hoc observer status to any other organization at the meeting.

170. In her summary of the informal meeting, the Chairperson had proposed to suggest to the Committee, at its regular meeting under this agenda item, the following:

- (1) that the Committee agree to invite the organizations with ad hoc observer status to participate in all of the SPS Committee meetings in 2013 - with the exception of any closed meetings such as with regard to observers - unless any Member raised an objection to the participation of any of these observers in advance of a meeting;
- (2) that if for any one-year period an ad hoc observer organization did not attend the meetings of the SPS Committee, the Committee may consider that its observer status had ceased only after the Secretariat had advised the observer organization and received confirmation that it was no longer interested in maintaining its observer status; and
- (3) that pending the development of any further criteria by the Committee regarding the role of observers, Members did not consider it appropriate for an observer organization to express an opinion or pass judgement with respect to Members' SPS measures. Instead, observer organizations should provide information regarding their standards, technical assistance programmes and other relevant activities.

171. Following the report of the informal meeting, the Committee agreed to the first two proposals by the Chairperson. That is, the Committee **agreed** to invite the organizations with ad hoc observer status to participate in all of the SPS Committee meetings in 2013 - with the exception of any closed meetings such as with regard to observers - unless any Member raised an objection to the participation of any of these observers in advance of a meeting. The Committee also **agreed** that if for any one-year period an ad hoc observer organization did not attend the meetings of the SPS Committee, the Committee may consider that its observer status had ceased only after the Secretariat had advised the observer organization and received confirmation that it was no longer interested in maintaining its observer status.

172. With respect to the third proposal regarding the role of observers, India highlighted its reservations on this proposal specifically in relation to the organizations referred to in Article 3.4 of the SPS Agreement. India considered that the observer organizations could only provide information on on-going activities regarding their standards and capacity building activities and not with respect to specific standards that were developed earlier unless the Committee agreed to receive such information. India further observed that Article 12.6 of the SPS Agreement indicated that the Three Sisters would examine specific standards only at the request of the Committee and not at the request of the Chairperson alone. India proposed that the Committee adopt language limiting the role of observers to providing information on "on-going activities" only.

173. The Secretariat drew attention to the fact that Article 12.6 had been formally invoked only on one prior occasion, when the Committee formally requested the OIE to examine what would be the appropriate process and factors to consider in undertaking a risk assessment of Bovine Spongiform Encephalopathy (BSE). On that occasion, the OIE had developed guidelines regarding the factors to be considered in a risk assessment of BSE and reported the same to the Committee.

174. Canada recalled that the General Council decision WT/L/161 Annex 3 paragraph 8 of 1996 provided that observer organization could be invited to speak / provide information, normally after the Members had spoken, but that the right did not extend to circulation of papers or participation in decision making. India's proposal would restrict the role of observer organizations in contradiction to

the General Council decision. The European Union and the United States also did not agree with India's proposed restrictions on the role of observers. The Committee reached no decision on the role of observers.

XIII. CHAIRPERSON'S ANNUAL REPORT TO THE COUNCIL FOR TRADE IN GOODS

175. The Chairperson noted that she would make a brief, factual annual report, under her own responsibility, on the activities of the Committee for consideration by the Council for Trade in Goods. The report would describe the main work undertaken during 2012, including the discussions on SPS-related private standards, ad hoc consultations, and the workshop on transparency, and provide an overview of discussions under several agenda items. A draft of the annual report was made available to delegates at the beginning of the meeting, and Members could provide comments on the draft annual report until 9 November 2012. The final report was circulated as G/L/1013.

XIV. OTHER BUSINESS

176. The Chairperson recalled that under this agenda item Members were invited to raise other issues of concern, identified at the beginning of this meeting.

(i) Indonesia's Permits on Horticultural Products – Concerns of the United States

177. The United States was concerned about Indonesia's Ministry of Trade Regulation 30, notified to the Import Licensing Committee as G/LIC/Q/IDN/32; and Ministry of Agriculture Regulation 60. Neither of these measures had been notified to the SPS Committee for comments by trading partners, yet both identified food safety as a primary objective. Both regulations resulted in the implementation of an import permit system with the potential to disrupt trade, but gave exporters and importers little information and no time to comply with the requirements. Accordingly Indonesia was requested to notify both Regulations 30 and 60 and to provide time for comments before implementation, and also to provide scientific evidence that the import permit system was necessary to protect human, animal and plant health.

178. New Zealand supported the concerns of the United States and encouraged Indonesia to provide greater clarity on its measures through timely notification to the relevant WTO Committees.

179. Indonesia acknowledged the concerns of the United States and New Zealand regarding the Regulation 60 of the Ministry of Agriculture and the Ministry of Trade Regulation 30. Regulation 60 had been notified as an SPS measure, but the document had not yet been circulated. Indonesia noted that it had discussed the issue bilaterally with the United States and would follow-up.

(ii) Brazil's Measures in Shrimp – Concerns of Ecuador

180. Ecuador flagged the drastic decrease in its shrimp exports due to Brazil's Standard 99, that placed conditions on the authorization for shrimp imports so as to prevent the introduction of white spot and yellow head virus. Ecuador had spent considerable resources in protecting and preserving its shrimp production from these two diseases through the residue and contaminant monitoring plans, which had been provided to Brazil. The Brazilian authorities had indicated that the measures adopted in Standard 99 had been lifted; however the Brazilian Ministry of Agriculture published another Standard 12 establishing procedures for import risk analysis that was yet to be implemented. Bilateral discussions had resulted in information exchange and Ecuador hoped for a rapid mutual solution to the issue.

181. Brazil noted that it had been informed of this trade concern at short notice and did not have sufficient time to prepare a substantive response. The concerns would be conveyed to the relevant authorities in the hope that a solution could soon be found.

XV. DATE AND AGENDA OF NEXT MEETING

182. The Secretariat flagged that the dates for the next meetings of the Committee had been slightly changed: the regular meetings of the Committee would be held on 21-22 March, 27-28 June and 9-10 October 2013. Informal meetings on ad hoc consultations, private standards and issues arising from the Third Review would be scheduled immediately prior to the regular meeting. The informal meetings on ad hoc consultations and on private standards would be open for participation by observer organizations, however the informal meeting on observers was not.

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

1. Adoption of the agenda
2. Information on relevant activities
 - (a) Information from Members
 - (b) Information from the relevant SPS standard-setting bodies
3. Specific trade concerns
 - (a) New issues
 - (b) Issues previously raised
 - [(c) Consideration of specific notifications received]
 - (d) Information on resolution of issues in G/SPS/GEN/204/Rev.12
4. Operation of transparency provisions
5. Implementation of special and differential treatment
6. Equivalence – Article 4
 - (a) Information from Members on their experiences
 - (b) Information from relevant Observer organizations
7. Pest- and Disease-free areas – Article 6
 - (a) Information from Members on their pest or disease status
 - (b) Information from Members on their experiences in recognition of pest- or disease-free areas
 - (c) Information from relevant observer organizations
8. Technical assistance and cooperation
 - (a) Information from the Secretariat
 - (i) WTO SPS activities
 - (ii) STDF
 - (b) Information from Members
 - (c) Information from Observers
9. Review of the Operation and Implementation of the SPS Agreement
 - (a) Issues arising from the Second Review
 - (i) Use of ad hoc consultations – Report on informal meeting
10. Monitoring of the use of international standards
 - (a) Proposed revision to the monitoring procedure

- (b) New issues
 - (c) Issues previously raised
11. Concerns with private and commercial standards
 - (a) Report on informal meeting
 12. Observers
 - (a) Information from Observer organizations
 13. Report of informal meeting
 - (a) Request for observer status
 - (i) Ad hoc Observers
 - (ii) Outstanding requests
 14. Election of Chairperson
 15. Other business
 16. Date and agenda of next meeting
184. Members were asked to take note of the following deadlines:
- For Members wishing to be a part of the ad hoc consultations group to provide one email address each to the Secretariat: **Wednesday, 31 October;**
 - Any comments / suggestions on the draft Annual Report must be provided by: **Friday, 9 November;**
 - For new proposals on a working definition on SPS-related private standards: **Friday, 21 December;**
 - For identification of issues under the monitoring procedure or requesting that an item be included on the Agenda and for informing another Member if intending to raise a specific trade concern regarding their measure(s): **Thursday, 7 March 2013;**
 - For the distribution of the Air-gram and the circulation of documents for discussion during the March meeting: **Friday, 8 March 2013.**

185. Before adjourning the meeting, the Chairperson noted that this would be the last meeting in which the Committee would be assisted by Ms Irma Bracco, who would be retiring from the WTO at the end of the year. Ms Bracco had provided excellent assistance to every single meeting of the Committee since its inception. The Committee gave an ovation to Ms Bracco and thanked her for her exceptional service.
