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Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 30-31 MARCH 2011

Note by the Secretariat[1]

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

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I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its fiftieth meeting on 30-31 March 2011. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3722).

II. INFORMATION ON RELEVANT ACTIVITIES

(a) Information from Members

2. The representative of the United States provided information on the Food and Drug Administration (FDA) Food Safety Modernization Act (FSMA) (G/SPS/N/USA/2156). He indicated that trading partners would be invited to participate in the rule-making process through the WTO notification process. The law aims to strengthen collaboration among all food safety agencies, as building the food safety capacity in trading partners promotes a well-integrated and coordinated global food safety system.

3. The Ambassador of Japan expressed appreciation to all Members for their condolences following the massive disaster that had recently taken place in Japan. In light of this crisis, Japan had introduced food safety measures under the Food Sanitation Act. Japan had implemented a provisional regulation to prevent food exceeding the levels of radioactive contaminants established by the Nuclear Safety Commission of Japan from being supplied for public consumption. These levels are in line with the radiation protection measurements recommended by the International Commission on Radiological Protection. Japan would be monitoring levels of radioactive contaminants in agricultural products to evaluate potential food safety risks and provide detailed information to its trading partners through the WTO, WHO and FAO. In turn, Japan requested that Members not over-react to this situation by imposing unjustifiable import restrictions.

4. The representative of Japan also reported that, based on its recent experience with Foot and Mouth Disease, amendments to the Animal Disease and Infection Control Law were being considered and had been notified to the WTO (G/SPS/N/JPN/27). This Law does not affect the current measures and procedures for commercial cargo.

5. The representative of Japan reported that since November 2010, highly pathogenic avian influenza (HPAI) outbreaks had been confirmed on 23 farms in nine prefectures of Japan. A number of wild birds were also confirmed to be infected with the virus. In response to these outbreaks, Japan had applied a number of control measures and remained committed to both swift and effective control over HPAI outbreaks and to keeping Members informed through various channels including the OIE notification system.

6. The representative of the European Union provided information regarding Foot and Mouth Disease in Bulgaria (G/SPS/GEN/1072). Following the circulation of this document, there had been further outbreaks with the latest occurring on 19 March 2011. In January, a decision was taken concerning interim protection measures to identify high-risk and low-risk areas in Bulgaria. The dispatch of susceptible species was immediately prohibited from both areas, while the dispatch of products derived from animals of susceptible species was prohibited only from high-risk areas. The European Union urged its trading partners to apply the concept of regionalisation in the event of disease outbreaks.

7. The representative of the European Union also provided information on the EU legislation related to pesticide residues. The new legislation framework had been applicable since September 2008 to complete the harmonization and simplification of pesticide maximum residue limits (MRLs). Under the new pesticide framework, MRLs undergo a common EU assessment to ensure that all

consumer classes are sufficiently protected, while eliminating inappropriate technical barriers to trade. This means that an application for an MRL to be set for the use of a pesticide needs to be made only once, and the MRL will be applicable throughout the European Union. A default MRL of 0.01mg/kg will be applied to pesticides for which no information has been provided. Importers should apply for tolerances when products treated with pesticides are imported into the European Union, unless there are extenuating circumstances such as a Codex standard for which the European Union has not noted any reservations. For substances no longer authorised in Europe, international standards and import tolerances would normally be maintained unless data show that these were not safe for consumers.

8. The representative of the Dominican Republic raised an issue concerning EU Regulation 669 of 2009 under which seven products exported from the Dominican Republic had been under intense pesticide residue checking. The enquiry pertained particularly to bananas and mangoes that had been cleared by the EU authorities and yet still had not been released.

9. The representative of India raised concerns that in spite of the existence of international standards, the European Union had set its own MRLs for which they had not yet provided scientific evidence. Furthermore, the European Union was shifting the burden of proof by requiring that its trading partners provide the scientific evidence to modify the EU residue levels.

10. The representative of the European Union indicated that she was not in a position to reply in detail to both concerns. However, Regulation 669 was continually reviewed on a quarterly basis and if indeed mangoes and bananas were found to be in conformity with the legislation over a period of time they would be released from the increased testing.

11. The representative of New Zealand informed the Committee of the amalgamation of the New Zealand Food Safety Authority and the Ministry of Agriculture and Forestry into one organization now known as the New Zealand Ministry of Agriculture and Forestry (G/SPS/GEN/1071). This one-stop shop deals with all activities relating to food safety and plant and animal health. SPS technical staff and trading partners could continue to work with the same New Zealand contacts that they had in the past. Members were directed to the MAF website for more detailed information regarding the organization.

12. The representative of Belize reported that Belize had reviewed one of its principal laws, the Belize Agricultural Health Authority Act, Chapter 211 of the substantive Laws of Belize, 2000 – 2003 Revised Edition. The law covers four major areas: animal health, plant health, food safety and quarantine. The review had resulted in four major bills which, once enacted, would replace the Belize Agricultural Health Authority Act. During the review process, specific deficiencies had been addressed which would be reflected in the new legislation. Each of four draft bills would be notified separately and at different time periods, commencing in April 2011.

13. The representative of Korea reported that since the primary outbreak of Foot and Mouth Disease in eastern Korea the disease had spread across the country. Immediately after the outbreak, Korea had implemented emergency quarantine measures to minimize the outbreak of FMD in accordance with the National Contingency Plan for FMD. All animals infected or suspected of being infected were culled and buried and all susceptible animals, people, vehicles and animal growing facilities underwent movement restriction and disinfection. A Central Anti-Disaster Headquarters and Regional Anti-Disaster Headquarters had been established to carry out various quarantine measures to contain the disease. In spite of efforts from both the government and the livestock industry, FMD had spread across the country. This had led to the stamping out of infected and suspected animals, and the implementation of a nation-wide vaccination policy. FMD vaccination was carried out in phases based on the development of the situation and the amount of vaccine available. The number of FMD infections had dropped dramatically following the implementation of the vaccination policy and there had been no report of additional outbreaks since 25February 2011.

14. The representative of Korea also reported that the first HPAI case was reported in the middle western part of Korea but had since spread across the country. As of 28 March 2011, there had been 51 reported cases of HPAI. Korea had immediately taken emergency control measures in accordance with the National Contingency Plan for HPAI. All animals infected or suspected of being infected were culled and buried, and all susceptible animals, people, vehicles and animal growing facilities underwent movement restriction and disinfection. As of 18 March 2011, a total of 6.2 million animals had been culled and buried and there had been no further outbreaks since March 2011.

15. The representative of the OIE commented that the information provided by Members showed the seriousness of the risk that these diseases continue to present globally, and stated that this should encourage Members to support veterinary services as many of these diseases had far-reaching implications.

(b) Information from Observer Organizations

16. The representative of the OIE drew attention to document G/SPS/GEN/1073 regarding its relevant activities since the last meeting. In particular, the document outlined the OIE`s proposal for an additional step for official endorsement of control programmes for countries seeking to eradicate FMD, and outlined the progress in the application of the PVS Pathway tool.

17. The representative of the IPPC reported that at its recent meeting the Commission on Phytosanitary Measures (CPM) had agreed: (i) the revision of ISPM 7 and ISPM 12 with respect to phytosanitary certification systems; (ii) the adoption of an appendix for fruit fly trapping and three phytosanitary treatments based on radiation treatments; (iii) new strategic objectives for the IPPC; (iv) the reassessment of the operational autonomy of the FAO Article 14 bodies; (v) the establishment of an expert working group on capacity building to advise the Secretariat on issues such as quality delivery; (vi) the IPPC`s continued work on the development of the phytosanitary capacity evaluation tool; and (vii) the IPPC`s Implementation Review and Support System. He highlighted that a dispute between South Africa and the European Union was being examined under the IPPC dispute settlement procedure, and that the Subsidiary Body on Dispute Settlement had also been asked to provide guidance concerning the implementation of the IPPC`s standards. The IPPC had managed to secure short-term funding sufficient to maintain their standard-setting activities in 2011, however, the short-fall was much larger than anticipated and the IPPC was actively seeking more funding. An increasing number of countries were providing assistance in terms of temporary staffing and the IPPC encouraged other countries to follow suit.

18. The representative of Codex reported that Codex had two new members, the Republic of Azerbaijan and the Republic of Nauru and had held five food safety-related meetings since October 2010. A summary of the relevant activities of Codex was contained in G/SPS/GEN/1079. Subsequent to the distribution of that document, the Committee on Contaminants in Food had met in the third week of March in the Hague and had finalised a Code of Practice for the Reduction of Ethyl Carbamate in Stone Fruit Distillates, and had agreed maximum levels for Melamine in food, liquids and infant formula.

19. The representative of Pakistan expressed her appreciation of the OIE`s initiative for good governance of veterinary services. Pakistan was looking forward to IPPC`s new tool for capacity evaluation. Pakistan hoped that the Codex would continue to make the Codex Trust Fund available to assist developing countries to participate in standard-setting processes.

20. The representative of Japan drew attention to IPPC`s difficult financial circumstances and informed the Committee, that Japan had made an in-kind staff contribution to the IPPC for the preparation of the CPM meeting and would continue to assist the IPPC. The representative of the United States shared the concerns of Japan and encouraged Members to provide in-kind and financial

support to IPPC. The United States had provided numerous staff to assist the IPPC as well as funding above their annual FAO contribution to the IPPC for the past eight years.

21. The representative of New Zealand supported the interventions made by Japan and the United States and suggested that the Secretary of the IPPC, Dr Yukio Yokoi, be invited to present to the June Committee meeting the IPPC's strategic plan, and highlight areas that required further financial or in-kind assistance.

22. The representative of Australia recalled that Australia had previously raised concerns regarding the difficult situation facing the IPPC and was pleased to see other Members raising similar concerns. He highlighted that the IPPC was developing a Resource Mobilisation Strategy with the aim of securing funding from donors.

23. The representative of the IPPC indicated that a presentation on the IPPC`s strategic plan would not be possible because it had not yet been finalized, but that it would be possible to provide information on the IPPC's Resource Mobilisation Strategy.

24. The representative of the OIE highlighted that Codex had sent a note to delegates requesting their opinions on a proposal for the Joint Development of Common Standards by the OIE and Codex. The OIE was in the process of sending a similar note to its delegates asking them to coordinate with the national focal points for Codex, and encouraged the Committee to support the OIE position for the joint development of international standards.

III. SPECIFIC TRADE CONCERNS (G/SPS/GEN/204/REV.11)

25. The Secretariat recalled that document G/SPS/GEN/204/Rev.11 covered all the trade concerns since 1995. This resulted in a document of 400 pages that presented information that was publicly available from the SPS Information Management System (http://spsims.wto.org/). The Secretariat proposed that, starting in 2012, the annual compilation document would contain only the specific trade concerns (STCs) that had been discussed in the Committee in the previous three years, but would still include an overview and list of all STCs raised since 1995.

(a) New Issues

(i) Import Restrictions due to Dioxin Contamination in Germany – Concerns of the European Union

26. The representative of the European Union expressed concerns regarding import restrictions due to dioxin contamination in Germany. In light of the fact that Germany was managing the situation efficiently, many countries had lifted their restrictions. However, a number of Members continued to impose import restrictions which affected animal products from the European Union. The contamination was under control and the European Union urged Members to immediately lift their import restrictions.

27. The representative of Argentina responded that Argentina was one of the countries that had imposed import restrictions in response to the dioxin contamination. Argentina had notified the WTO that it had set up a surveillance programme for certain products from Germany and the Netherlands (G/SPS/N/ARG/41). However, in light of the information provided by the European Union, Argentina had since lifted these measures (G/SPS/N/ARG/41/Add.1).

(ii) Viet Nam`s Ban on Offals – Concerns of the United States

28. The representative of the United States expressed concerns about Viet Nam`s implementation of a temporary ban on the importation of offal products as of 7 July 2010. While Viet Nam had cited food safety concerns for the implementation of the ban, in spite of repeated requests from several trading partners, Viet Nam had neither notified the WTO of this measure, nor had it provided any scientific justification for the ban. The United States had raised this issue bilaterally in the margins of previous Committee meetings and at Transpacific Partnership meetings, but was yet to see any change in the ban.

29. The representative of Canada supported the concerns of the United States. Canada was informed of the ban only after it had been imposed, and was not provided any scientific explanation for the action. This ban had resulted in the immediate ban of trade valued at 4.2 million Canadian dollars in 2009. Canada had made numerous requests for Viet Nam to remove the ban, and the Canadian embassy in Viet Nam had been informed that Viet Nam intended to partially lift the ban. However, Viet Nam had subsequently introduced additional SPS requirements on offal imports, which Canada hoped were science-based.

30. The representatives of the European Union, New Zealand and Australia supported the concerns expressed by the United States and Canada.

31. The representative of Viet Nam responded that the emergency measures taken to temporarily suspend the importation of offals were in response to grave public health concerns. According to a 2009 WHO report, eight million Vietnamese people had health problems related to food. Viet Nam was aware of the concerns raised by its trading partners and was looking for solutions. However, as a developing country with limited resources, it would take some time to strengthen the inspection procedures and provide uniform guidelines. Viet Nam had already lifted its temporary ban on offals from poultry and pork and was currently in discussion with the United States and other trading partners to find adequate solutions for both Viet Nam's human health situation and trade.

(iii) Ukraine Import Restrictions on Poultry and Poultry Products – Concerns of Mexico

32. The representative of Mexico expressed concerns with Ukraine`s emergency notification regarding the reappearance of Newcastle Disease (G/SPS/N/UKR/54), and noted that Mexico timeously provided reports on new outbreaks. Mexico asked Ukraine to modify its measures and apply the concept of regionalisation.

33. The representative of Ukraine indicated that Ukraine's decision had been taken in light of information from the OIE, according to which Mexico had reported the disease without compartmentalisation in 2010. Hence the principle of regionalisation was not relevant in this case. However, Ukraine was open to discussing the issue bilaterally.

34. The representative of the OIE indicated that the OIE did not recognize Newcastle Disease-freedom in the same way that it recognized Foot and Mouth Disease-freedom, and the best way to demonstrate freedom from Newcastle Disease was to indicate that a country was in full compliance with the relevant OIE Code chapters. The OIE would be happy to help resolve this matter using its informal mediation mechanism.

(iv) United States Import Restrictions on Chrysanthemums – Concerns of Costa Rica

35. The representative of Costa Rica stated that Costa Rica was free from Chrysanthemum White Rust and had requested the United States to reduce post-entry quarantine to two months. However, the United States continued to request a post-entry quarantine of six months. On 27 April 2010,

APHIS had provided a post-entry permit restricting chrysanthemums from Costa Rica to 2000 cuttings, this was a disproportionate measure since chrysanthemums from Costa Rica could not spread Chrysanthemum White Rust.

36. The representative of the United States responded that the USDA/APHIS was re-examining the quarantine status of Chrysanthemum White Rust and would address Costa Rica`s concerns. However, Chrysanthemum White Rust remained a pest of quarantine significance in the United States and the United States continues to eradicate for it. Once determined, the necessary steps for potential changes in regulatory requirements for imports would be communicated to Costa Rica.

(b) Issues previously raised

(i) India`s Restrictions due to Avian Influenza – Concerns of the European Union (No. 185)

37. The representative of the European Union indicated that the risk assessment provided by India did not provide scientific basis to India's avian influenza restrictions. The European Union asked the OIE whether India's risk assessment provided grounds for changes to the existing OIE standards. The European Union also urged India to recognize the principle of regionalisation, and bring its import requirements in line with international standards.

38. The representative of the United States stated that the United States was still reviewing India's risk assessment on avian influenza. The United States would raise its scientific concerns with India bilaterally and would keep the Committee informed of its discussions with India, the European Union and the OIE.

39. The representative of the OIE stated that the OIE did receive India's risk assessment, and that the OIE had subsequently sent a response requesting clarification on the nature of the document.

40. The representative of India indicated that he would follow up on the response sent by the OIE, and flagged the need to first discuss the risk assessment India had provided before proceeding further.

(ii) Indonesia`s Import Restrictions on Beef and Recognition of the Principle of Regionalisation – concerns of Brazil (No. 305)

41. The representative of Brazil expressed concerns over Indonesia's Regulation 82/200, which did not seem to comply with Article 6 of the SPS Agreement. Indonesia had notified revisions to the law which would have permitted recognition of disease-free regions, and had engaged in bilateral discussions regarding imports of poultry meat from Brazil. In August 2010 however, Indonesian courts had cancelled that aspect of the legislation, and on 18 November 2010, Indonesia had submitted a notification (G/SPS/N/IND/43) which did not recognise the principle of regionalisation and forbade the import of poultry meat.

42. The representative of Indonesia noted that it had taken Indonesia a hundred years to completely eradicate Foot and Mouth Disease, and therefore the decision to amend the import regulations on animal and animal products from zone-based to country-based was meant to protect Indonesia from threats posed by countries which had had FMD. Indonesia had sought to develop regulations that were consistent with international standards, but these had been challenged in the constitutional court. Imports from regions where FMD had not been completely eradicated were therefore prohibited.

(iii) US Food Safety Modernization Act – Concerns of China (no. 299)

43. The representative of China, supported by Costa Rica and Pakistan, stated that despite promises to that effect, the United States had not notified the draft US Food Safety Modernization Act before the Act was formally adopted in January 2011. Hence, Members were only provided an opportunity to comment on the Act when it was notified by the United States on 2 March 2011. China asked that the United States notify draft regulations from the Act so that Members would have an opportunity to provide comments.

44. The representative of Jamaica raised several concerns regarding the US Food Safety Modernization Act relating to: (i) guidelines on the mandatory preventative controls for food facilities; (ii) produce safety standards in place in Jamaica and other Caricom countries; (iii) the status of the Jamaican Bureau of Standards' inspection checklist vis-à-vis the mandatory inspection of foreign facilities commencing in 2012; (iv) special and differential treatment with regards to the implementation period for enhancing food tracing and record-keeping; (v) foods tested by an accredited laboratory in Jamaica and whether they would need to be tested in the United States; (vi) the determination of the eligibility of a body listed as one of the Accreditation Bodies; and (vii) training and funding on the interpretation and implementation of the Act.

45. The representative of the Philippines requested that the measures and standards of the Act not be unnecessarily burdensome nor unduly increase the cost of compliance for small industries.

46. The representative of Mexico expressed concern regarding the administration of foods and that some elements of the Act were not based on science. Mexico noted that it would submit its comments to the relevant authorities.

47. The representative of the United States indicated that Members would be given an opportunity to comment on draft regulations before they are finalized and become binding on affected parties, including food manufacturers and importers. The FSMA required that FDA publish regulations and guidance documents to implement the provisions of the law and the FDA would publish those documents over the next several years. Regarding Jamaica`s comments on food controls, regulations would be developed and Jamaica would have the opportunity to comment during the drafting process. The concerns regarding the inspection frequency and checklists, would be forwarded to the FDA for consideration. The representative of the United States further noted that concerning Jamaica`s queries on food tracing, record-keeping and laboratory accreditation, draft regulations would take into consideration information provided by Members as well as existing arrangements. Finally, it was noted that the FDA was still developing plans with regards to capacity development.

(iv) EC Regulation No. 1099/2009 of 24 September – concerns of India (No. 300)

48. The representative of India expressed concern that the EU regulation contained animal welfare requirements that would be trade restrictive, and since the slaughter of animals was a sanitary issue this measure should be notified to the WTO. Furthermore, the new regulation introduced animal welfare requirements beyond those that had been in place since 1993, and should be notified to the WTO. India was particularly concerned that the provisions of Article 12 of the EU regulation were not in line with WTO agreements and that Article 5 would require that all establishments exporting meat receive a prior clearance from the European Union.

49. The representative of the European Union, supported by Chile, regretted that the topic was being discussed again as discussions at the October 2010 meeting had confirmed that animal welfare was not covered by the SPS Agreement. She highlighted that the regulation was based on science and took into account the OIE's animal welfare standards on the slaughter of animals, and that third

countries were not obliged to adopt the same requirements rather ones that were equivalent. Any remaining areas of concern could be clarified within the on-going free trade agreement negotiations between India and the European Union.

50. The representative of India noted that discussions at the October 2010 meeting had not been conclusive on whether or not animal welfare was covered by the SPS Agreement.

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

51. The representative of the United States stated that in January 2011, Chinese Taipei had ordered the cessation of the sale of US beef in grocery stores when two shipments of US beef had tested positive for ractopamine. Ractopamine was approved for use in 26 countries and in 2007 Chinese Taipei had determined that, based on scientific evidence, ractopamine was safe for use in cattle and swine. However, Chinese Taipei's notification of the implementation of MRLs, consistent with the draft Codex standard, had been delayed by domestic opposition and had resulted in significant trade barriers to US exports.

52. The representative of Canada indicated that Canada had already raised its concerns with Chinese Taipei bilaterally and on the margins of Committee meetings. While Codex had not yet adopted MRLs for ractopamine, Canada believed that the scientific work conducted by Codex and the Joint FAO/WHO Export Committee on Food Additives fully supported their adoption. Hence, Canada requested that Chinese Taipei reconsider its current prohibition.

53. The representative of Chinese Taipei stated that the use of ractopamine in food-producing animals was forbidden by many Members. Although Chinese Taipei had considered establishing MRLs for ractopamine, the process had been suspended due to criticism including from the scientific community. The 33rd Session of the Codex Alimentarius Commission had also been unable to reach a decision and Chinese Taipei was therefore of the opinion that further scientific research and evaluation were needed.

54. The WHO representative reported that the compilation of scientific information on ractopamine was available on the JEFCA website and that the conclusions were clear. The only outstanding issue related to consumption of and exposure to ractopamine from lung tissue. At the last Codex Committee of Residue of Veterinary Drugs several participants had requested from Chinese Taipei further clarification concerning the variability of concentration in lung tissue.

55. The representatives of the European Union and Norway stated that there were no Codex MRLs for ractopamine and that in the absence of international standards, they did not accept imported products treated with ractopamine.

(vi) European Union's Maximum Residue Levels of Pesticides – Concerns of India (No. 306)

56. The representative of India stated that the European Union had harmonised its pesticide residue levels under Regulation No. 396/2005 on MRLs for pesticides on food and feed of plant and animal origin. A default level of 0.01mg/kg had been applied on many chemicals, and the European Union had claimed that the MRLs had been set at the Level of Determination (LOD). However, without a validated test, it was not clear how the LOD was set and consequently the MRL as scientific evidence had not been provided despite substantially higher levels for the same chemicals existing in other countries. The representative of India re-stated its concerns relating to: (i) non- harmonization with international standards; (ii) lack of risk assessment; (iii) misuse of Article 5.7 of the SPS Agreement; (iv) lack of attempt to minimize negative trade effects; and (v) European Laws and Regulations.

57. The representative of the European Union noted that trading partners could apply for higher MRLs by providing scientific evidence. With respect to the commodities of interest to India, the European Union had indicated that given the economic significance of those commodities, it was prepared to modify the relevant MRLs. India had already submitted an application for a higher MRL which was under evaluation and, pending the outcome of that evaluation, an import tolerance would be set.

58. The representative of the European Union also informed the Committee that with regards to the concern raised by the Dominican Republic on import restrictions on mangoes, those import checks would be lifted from 1 April.

(vii) Turkey`s Restriction on Products derived from Biotechnology – Concerns of the United States (No. 302)

59. The representative of the United States noted that the development and implementation of Turkey's law on new biotech measures had not been transparent. The United States appreciated the valuable trade in agricultural products with Turkey and wished to re-establish market access for the previously approved products without delay. Turkey had approved the use of three soybean varieties for feed on 26 January, however they had not yet been approved for food use and no other varieties had been approved for either food or feed use despite applications having been submitted. The United States remained concerned that the system prohibited the presence of biotech products in products for infants and children, as well as its cultivation without a risk assessment or scientific evidence. The United States sought clarifications on the process and criteria used to make decisions.

60. Canada and Argentina noted that they had raised concerns in writing that Turkey's proposed regulations were not based on science and, were still awaiting a response from Turkey. As the new GMO regulations had already been implemented, both Canada and Argentina asked how trading partners' comments would be taken into account, and urged Turkey to reconsider its regulations in light of those concerns.

61. The representative of Turkey stated that replies had been sent to Canada and Argentina in December 2010 and copies would be given to the respective representatives at the end of the meeting. Turkey had notified its new measure with sufficient time for Members to provide comments (G/SPS/N/TUR/7, 8, 10 and 11). Turkey had received comments from five Members and had allowed eight months between the notification and the implementation of the legislation. The comments received by Turkey related to: (i) terminology; (ii) translation issues; and (iii) other questions and comments. All relevant comments had been taken into account during the preparation of the secondary legislation. The legislation was based on the principles of the UNCBB Protocol, and attempted to manage the risks associated with GMO products. The legislation had been implemented for six months and so far, no trade restrictions had been reported.

(viii) Japan`s Prohibition of Certain Food Additives – Concerns of India (No. 307)

62. The representative of India stated that at the October 2010 meeting, India had raised concerns about 31 of the 80 food additives that Japan had notified as no longer being distributed in Japan (G/SPS/N/JPN/255). In March 2011, the original list had been reduced to 50, however, India still had concerns regarding 18 food additives to be withdrawn from the Japanese market on 18 May 2011.

63. The representative of the European Union also requested clarification on a number of food additives planned to be withdrawn and which, according to the webpage of the Japanese Ministry of Health, still remained on the list. The European Union would continue its bilateral discussions with Japan to address its outstanding concerns.

64. The representative of Japan stated that Japan was carrying out a safety verification of existing food additives, as some were being used without a risk assessment. Japan had notified the WTO in July 2010 (G/SPS/N/JPN/255) and had received several comments. At the October 2010 meeting, Japan had asked India to submit evidence that certain substances were in use in Japan so as to change the status of those food additives. However, India`s comments had been received after the comment period had lapsed. Japan would publish a list of 55 substances for withdrawal from the Japanese market in the official Gazette, in May 2011.

(ix) General Import Restrictions due to BSE – Concerns of the European Union (No. 193)

65. The representative of the European Union urged Members to lift unnecessary restrictions negatively affecting EU beef exports. The OIE standard highlighted that there should not be restrictions on some bovine products regardless of the BSE-risk status of the country. Unfortunately, several unjustified restrictions from Members only allowed imports from countries with a negligible BSE-risk assessment. In addition, there had also been a number of discriminatory practices and inconsistencies in the level of protection of some countries. The European Union urged Members to align their requirements with OIE standards and acknowledged the many countries that had started the assessment process to allow imports.

(c) Consideration of specific notifications received

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

(d) Information on Resolution of Issues in G/SPS/GEN/204/Rev.11

(i) Greece`s Inspection and Testing procedures for Wheat – Concerns of Canada (No. 206)

67. The representatives of Canada and the European Union reported that Greece had addressed Canada's concerns by amending its 2004 testing and inspection requirements for imports of grains from third countries.

(ii) Restrictions on Poultry and Poultry products - Concerns of Chile (No. 311)

68. The representative of Chile thanked Croatia and Albania for lifting their restrictions on poultry products. The restrictions had been introduced due to incorrect information regarding the presence of avian influenza in Chile but Chile had been free of avian influenza since 2002.

IV. OPERATION OF TRANSPARENCY PROVISIONS (G/SPS/GEN/27/REV.21, G/SPS/GEN/1076, G/SPS/ENQ/26, G/SPS/NNA/16)

69. The Secretariat reported that the new SPS Notification Submission System (NSS) was now online. The system had been first made available to a few Members to ensure that it was functioning correctly and, once that was finalised, access passwords would be provided to all Members through their National Notification Authorities with a copy to Geneva missions. Members could also submit notifications as previously. The Secretariat flagged that it would provide an information session the following afternoon to allow Members to test the new system.

70. The representative of El Salvador congratulated the Secretariat on the NSS initiative and expressed gratitude for the recent training provided to its Enquiry Point.

V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

71. The representative of Cuba noted that the consideration of special and differential treatment, and of technology transfer, was not sufficiently discussed in the SPS Committee. Cuba valued the technical assistance it received bilaterally or from specialized organizations and hoped to receive more technical assistance relating to technology transfer. Cuba recalled that in its proposal to the CTDSS (TN/CTD/W/32) it had suggested that technology transfer be provided to help developing countries deal with the TBT and SPS restrictions on their exports. Cuba supported all possible actions or initiatives in the provision of special and differential treatment, in the widest possible sense, in light of the need for adequate resources to carry out appropriate technical tests and risk analysis.

VI. EQUIVALENCE – ARTICLE 4

(a) Information from Members on their Experiences

72. The representative of Chile reported that Chile was working with the European Union on two issues relating to equivalence as outlined in their Plan of Action Agreement, namely molluscs and exports of EU packaged beef.

(b) Information from Relevant Observer Organizations

73. No observer organization provided any information under this agenda item.

VII. PEST- AND DISEASE-FREE AREAS – ARTICLE 6

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

74. The representative of Japan reported that Japan`s status as an FMD-free country without vaccination had been restored. Japan encouraged Members that continued to suspend imports on the grounds of FMD outbreaks to lift their restrictions.

75. The representative of Paraguay reported that since the restoration of its FMD-free status with vaccination in 2006, Paraguay had not had any cases of FMD. In February 2011 the OIE had lifted the high surveillance zone in place for preventative measures and restored Paraguay`s classification of a FMD-free zone with vaccination. Paraguay had also been recertified as a BSE-negligible-risk country.

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

76. The representative of Chile stated that Chile had had FMD-free status for about 24 years, however some countries still had not recognised that status, resulting in numerous bureaucratic problems. This was also the case with regards to classical swine fever .

(c) Information from Relevant Observer Organizations

77. The representative of the OIE noted that the principle of regionalisation was applied with regards to every disease in the OIE. As all the disease chapters were being gradually revised in the OIE and in the terrestrial codes, the OIE was looking at how zones could be used as trade facilitation measures. That would be particularly important in the future as the OIE started to focus more on diseases in wild-life and to ensure that the incentives for reporting diseases and transparency were not outweight by disincentives.

78. The representative of Codex flagged that while regional FAO/WHO Coordinating Committees set commodity standards, there were also for instance codes of hygienic practice for street food sold within countries which did not necessitate Codex regional SPS-related standards.

79. The representative of IPPC indicated that IPPC had started to collect information on pest-free areas in line and had found that several countries dealt differently with pest-free areas. Furthermore, despite the availability of a form on pest-free areas on the IPPC website, there had not been many responses.

VIII. TECHNICAL ASSISTANCE AND CO-OPERATION

(a) Information from the Secretariat

(i) WTO SPS Activities

80. The Secretariat drew attention to documents G/SPS/GEN/521/Rev.6 and G/SPS/GEN/997/Rev.1. Document GEN/521/Rev.6 compiled all the SPS technical assistance activities undertaken by the Secretariat from 1 September 1995 to 31 December 2010 and GEN/997/Rev.1 provided detailed information about all the SPS technical assistance activities planned for 2011. The Secretariat indicated that the 2011 Advanced SPS Course would be held from 10 to 28 October 2011 in Geneva and in light of the overwhelming amount of applications from all regions last year, the course would be offered again in English. The deadline for submission of applications for WTO funding for the Course, as well as for the three regional workshops being held this year, is 8 July 2011.

81. The representative of El Salvador thanked the Secretariat for the National SPS Seminar held in El Salvador in 2010.

(ii) Standards and Trade Development Facility (STDF)

82. The Secretariat of the STDF provided a brief overview of the STDF's main activities (G/SPS/GEN/1075). The overview included: (i) the STDF working group of March 2011; (ii) the conclusion of the STDF production of the "Trading Safely" film in Arabic, Chinese and Russian; (iii) STDF collaboration with the Enhanced Integrated Framework (EIF) in the preparation, validation and update of DTIS and project development; (iv) the pilot training workshop on project design and logical frameworks in Nepal in March which would be replicated in selected LDCs in 2011; and (v) the Aid for Trade Ministerial for the Special Programme for the Economies of Central Asia (SPECA) in Baku, Azerbaijan. Future STDF events include a global event on international trade and invasive species in 2012 for which the STDF would consult with IPPC, the OIE, and other relevant organizations.

83. The Secretariat noted that for the March Working Group, several relevant organizations had requested to present issues of interest to the SPS capacity building community, including two more presentations to the SPS Committee at lunchtime. All presentations would be available on the STDF website. The Secretariat concluded by noting that applications for STDF funding could be made at any point in the year but had to be received at least 60 working days in advance of working group meetings in order to be considered. The next deadline for the submission of applications was 8 April 2011 and applicants were strongly encouraged to read the "Guidance Note for Applicants" available on the STDF website.

(b) Information from Members

84. The representative of the European Union drew attention to EU technical assistance activities summarized in G/SPS/GEN/1074 and noted that the bulk of EU technical assistance activities in the SPS area was implemented within the framework of multi-annual country assistance programmes aligned with national development plans to ensure overall coherence. The European Union also promoted regional co-operation to facilitate South-South trade through the harmonisation of SPS frameworks, strengthen regional consumer protection as well as improve international market access. The European Union also supported programmes at a global or African level including the EDES project, the African Veterinary Governance Programme jointly implemented by the OIE, the FAO and the AU-IBAR, and the PAN-SPSO programme. There were also a number of specific SPS training initiatives under the umbrella of the European Commission`s Better Training for Safer Food. The representative of the European Union invited developing countries to approach either the EU representation in their countries or the directorate of the EU Commission in charge of technical assistance.

(c) Information from Observers

85. The representative of the OIE drew attention to reports of the successful use of the PVS pathway from various donors, beneficiary countries and regions. In addition to the initial PVS assessment, PVS gap analysis missions looked at veterinary legislation, twinning arrangements, and specialized veterinary training institutes. As OIE standards and recommendations regarding aquatic animals had been neglected in SPS capacity building, the OIE encouraged Members to enter the PVS pathway for aquatic animals as well. The OIE representative also drew attention to the June 2011 global conference on aquatic animal health programmes and their benefits for global food security which would be held in Panama City. The PVS was also diversifying into the area of collaboration between public health agencies and veterinary services. A conference on rabies control would take place in Korea on 7-9 September 2011 in collaboration with the government of Korea.

86. The representative of the IPPC stated that over 70 countries had used the phytosanitary capacity self-evaluation tool and some countries had undergone the process several times because of oft-changing conditions. The IPPC had also started a pilot project for gathering information for phytosanitary capacity development projects which would be discussed at the expert working group in May 2011. A system would be subsequently developed to manage the database, publicly available as of late 2011 early 2012. The project database would attempt to address the overlap in projects the IPPC was involved with, as some countries applied for funding from different donors. IPPC would also develop a training of trainers programme in coordination with other pertinent organisations, as well as generic training material that would be made available to the public to foster consistency on IPPC issues. The Implementation and Review Support System would look at a number of mechanisms such as the PCE focussing on gaps and problem areas in the phytosanitary world, as well as addressing regional problems.

87. The representative of Codex noted that Codex was not involved in capacity building activities except as trainers. The strategic outlook of the Codex Trust Fund for the next six years would be finalised at the next Codex Commission.

88. The representative of IICA drew attention to document G/SPS/GEN/1068 on IICA activities. The document gave a progress report regarding support for participation at Codex meetings. The United States Department of Agriculture had provided 75 per cent of the funding and IICA the remaining 25 per cent. Some of the main findings were that: (i) there was support for active participation in international fora as capacity building, (ii) countries had to earn the right to attend by reporting on the impact of their participation, and (iii) there must be a national structure of the Codex committee to derive benefits. Given the political and institutional changes ongoing domestically,

training had to be provided at least every three years. Lastly, the IICA representative reported that IICA had signed a cooperation agreement with the FDA to capacitate countries of the Americas to deal with new US food safety regulations.

89. The representative of ITC provided an overview of ITC`s activities (G/SPS/GEN/1082) which had included: (i) involvement in two projects in Kyrgyzstan and Tajikistan; (ii) the supervision of an STDF project in Nigeria on expanding Nigeria's exports of sesame seeds and Shea nut butter; (iii) a programme helping enterprises and develop local capacity in implementing food safety management systems in Samoa, according to ISO 2200; and (iv) a project on strengthening capacity for international trade in the agro-processing sector in Guinea. Concerning its Non-Tariff Measures Project, ITC pursued the launch of NTM surveys. Under the Trade for Sustainable Development Program, ITC had recently launched a new standards map on its website, including a comprehensive database on voluntary standards. ITC was also involved with the Access Programme under the Canadian-funded Programme for building African Capacities for Trade (PACT) providing training to African business women. In November 2010, ITC had organised a regional workshop with ISO on linking trade promotion organisations and national standards bodies for export success, and a third event for Anglophone African countries was tentatively scheduled for June 2011.

90. The representative of OIRSA highlighted some of OIRSA technical assistance activities (G/SPS/GEN/1078), including: (i) work with SPS-related programmes such as the compliance with the regional emergency declaration in pineapple plant by Fusarium (Fusarium guttiforme); (ii) joint support with the International Atomic Energy Agency for the participation of the regional technical group on fruit flies at an international symposium in Valence; (iii) tomato detection programme in some member countries; (iv) training programmes in Nicaragua, Belize, El Salvador, and Mexico; (v) STDF project 284 to strengthen the Honduras National Committee on sanitary and phytosanitary measures; and (vi) support for a sanitary protocol between El Salvador and Nicaragua.

IX. 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

91. The Chairman reported that at the informal meeting on the recommended procedure to encourage and facilitate ad hoc consultations held on 29 March 2011, he had reminded the Committee that the use of the Good Offices of the SPS Chair was included in the Committee's Working Procedures and that it had been used on three occasions in the past, with the most recent one being in March 2001.

92. During the informal meeting, the Committee had considered three documents: (i) a revised proposal on a specific mechanism on the use of the Good Offices of the SPS Chair, contained in G/SPS/W/243/Rev.4; (ii) a new proposal by India, Norway, the Philippines and Switzerland, contained in JOB/SPS/1; and (iii) a submission by Canada regarding its past experience in using Article 12.2 ad hoc consultations, contained in G/SPS/GEN/1080.

93. The Chairman had recalled that, in advance of the meeting, he had also requested the Secretariat to prepare two reference documents that had been distributed as room documents. One of these was a comparison table between document G/SPS/W/243/Rev.4, the February 2010 HM NAMA proposal (TN/MA/W/106/Rev.1) and the new JOB document (JOB/SPS/1). The second room document provided responses to questions that were raised in the 30 July 2010 non-paper by India, Norway, the Philippines and Switzerland regarding ad hoc consultations.

94. The Secretariat had introduced the fourth revision of the draft proposal of an SPS mechanism contained in G/SPS/W/243/Rev.4. This fourth revision reflected suggestions from Canada and the United States, the only two Members who had submitted written comments on the third revision by the 17 December 2010 deadline. Several Members had supported this new revision and noted that it reflected much of the work that had taken place. One Member had proposed that the deadline and transparency provisions that were found in the previous version be re-introduced.

95. The representative of India had presented the new proposal from India, Norway, the Philippines and Switzerland. He had noted that the co-sponsors of the new proposal felt that the G/SPS/W/243 series did not sufficiently reflect the concerns that some Members had raised and thus the co-sponsors had decided to table a separate proposal. He had explained that the proposal had several links to the on-going work on the Horizontal Mechanism and highlighted the sunset clause that was contained in paragraph 17. Several Members had welcomed this new proposal, and especially the additions of indicative deadlines for the conclusion of the procedures, and the technical assistance and transparency provisions. These Members had noted that this proposal added value to the discussions but also emphasized that much work still needed to be done to refine the proposal and add issues such as third party participation.

96. Several Members had indicated that some provisions in the new proposal conflicted with their national position, namely the relaxed confidentiality and the mandatory time frame provisions. These Members had also noted that they had fundamental concerns with the facilitator providing legal opinions and on the sunset clause. They had highlighted that the SPS Committee provisions for ad hoc consultations were not dependent on a decision in other fora such as the NAMA negotiating group. Some Members had noted that fundamental differences existed between the two proposals but that a number of the recommendations in the new proposal were similar to those in the Secretariat's document.

97. Canada had presented a paper on its experience using Article 12.2 ad hoc consultations to facilitate the resolution of an SPS trade-related issue (G/SPS/GEN/1080). Canada had highlighted that the participation of the Chair had added rigour to the consultations. The European Union had noted that it was difficult to find information on its experience using Article 12.2, especially with regards to the usefulness of the participation of the Chair, as these consultations had been held long ago. The United States had also shared some of its observations regarding the use of the Article 12.2 consultations. It had noted that it was an effective and flexible tool to discuss scientific and technical concerns and to understand other Members' position on the issue. Its use also signalled to the SPS Committee that Members were serious about seeking a solution. The United States provided a review of its past use of ad hoc consultations, noting that although the final result was overtaken by other events, the United States found the experience to be very helpful.

98. The Secretary to the SPS Committee had offered to share notes with the delegations who had been involved in the previous consultations, noting that these notes were factual in nature.

99. India had suggested that the reason why these ad hoc consultations under Article 12.2 had been of limited value was because the Committee needed a mechanism with certain mandatory provisions.

100. To advance the work, the Chairman had invited all Members to submit comments in writing on documents JOB/SPS/1 and G/SPS/W/243/Rev.4 by **29 April 2011**. After receiving these comments, it would be useful if the Secretariat were to merge the two proposals and integrate the suggestions into one working document, using brackets to indicate where substantial differences remained. This new working document would be distributed prior to the June SPS Committee meeting and could form the basis for discussions at the next informal meeting.

101. In commenting on the Chairman's report, the representative of the United States stated that the resolution of this issue from the Second Review depended on a consensus by Members on a way forward. He highlighted the important effort of drafting G/SPS/W/243/Rev.4 and requested more information concerning the practical implementation of the ideas in JOB/SPS/1 and how to ensure that the work done in G/SPS/W/243/Rev.4 was not reversed.

102. The Philippines, Argentina, Brazil, Pakistan and Hong Kong, China supported the Chairman`s proposal to merge documents as they complemented each other. A merged document would include all views with the outstanding differences bracketed for further discussion. The Philippines and Hong Kong, China suggested that the Chairman hold consultations on the merged document in advance of the next formal meeting to attempt to clean up the text and bring the Committee closer to agreement on an *ad hoc* mechanism at its next meeting in June.

103. The Chairman agreed with the suggestion by the Philippines and Hong Kong, China to hold consultations on the merged proposal prior to the next Committee meeting, to allow Members to begin a substantive discussion on issues of divergence and be in a better position to make progress on this issue at the next Committee meeting.

104. The representative of the United States requested clarification on whether the comments made on JOB/SPS/1 would be incorporated into the merged document that would be prepared for the June meeting. The Chairman responded that comments on both documents should be submitted by 29 April and would be incorporated, as appropriate, in the merged document.

105. The representative of Canada noted its preference for the merged document to be discussed on the margins of the next Committee meeting to ensure the participation of capital-based delegates. Canada and other countries had shared their experience on using the *ad hoc* mechanism and hoped that Members would take those comments into consideration when reviewing both documents.

106. The Chairman reiterated that comments on both G/SPS/W/243/Rev.4 and JOB/SPS/1 should be received by 29 April, following which a merged document would be prepared putting divergent issues side by side in brackets. Inter-sessional consultations would then be held in Geneva in May to examine the merged document in advance of an informal meeting of the Committee in June. The Chairman clarified that the inter-sessional consultations would involve all interested Members and that a video and/or telephone conference link would be provided.

(b) Issues arising from the Third Review

(i) Report on the Informal Meeting

107. The Chairman reported that at the informal meeting of the SPS Committee on issues arising from the Third Review held on 29 March, Members had discussed specific proposals from Argentina, Canada, Japan and New Zealand.

108. The Chairman had recalled that at its March 2010 meeting, the Committee had adopted the report of the Third Review, which is contained in document G/SPS/53. The report identified several issues where the Committee had agreed to further work. At the October 2010 informal meeting, Members had agreed to prioritize three issues for consideration under the work of the Committee arising from the Third Review: (i) the cooperation between the SPS Committee and the Three Sisters; (ii) improving the procedure for monitoring the use of international standards; and (iii) control, inspection and approval procedures (Article 8 and Annex C).

109. The Chairman reported that two items had been discussed under the issue of cooperation between the SPS Committee and the Three Sisters: (i) a new joint submission by Canada and Japan;

and (ii) a proposed programme from the Secretariat for a workshop on national coordination. Canada had referred to its joint submission with Japan to advance work in particular on recommendations 3, 6 and 7 from the October 2009 workshop on the relationship between the Committee and the Three Sisters. The report of that workshop is G/SPS/R/57. Canada and Japan had suggested that the Committee encourage joint work by the Three Sisters on cross-cutting issues such as certification, inspection, approval procedures and/or risk analysis.

110. Japan had drawn Members' attention to recommendation 6 on soliciting more information at the strategic planning phase of the Three Sisters' work, stating that the recommendation was useful for the enhancement of the co-operation between the Committee and the Three Sisters. Japan had suggested the creation of a forum to discuss these matters, such as an informal meeting on the margins of the SPS Committee meeting. Regarding recommendation 10, Japan had supported the Secretariat's proposed workshop on SPS coordination at the national and regional levels.

111. The United States had supported the proposals by Canada and Japan for increased and improved co-operation between the Three Sisters and the SPS Committee, including through the regular exchange of information. The United States had also agreed that Members should be encouraged to identify the relevant cross-cutting issues. The Secretariat had presented a draft programme for a workshop on SPS coordination at national and regional levels (G/SPS/GEN/1067), based on the recommendations of the October 2009 workshop on the relationship between the SPS Committee and the Three Sisters. Members were invited to make suggestions on the proposed programme, including identification of possible speakers to present good coordination practices at the national and regional level. The Secretariat had noted that funding would be available to sponsor the participation of about 50 officials from developing and least-developed country Members and Observers, and that application forms for this purpose were available in G/SPS/GEN/997/Rev.1.

112. The Chairman reported that on the second prioritized issue on improving the procedure for monitoring the use of international standards, Argentina had introduced its submission (G/SPS/W/255), and had noted that monitoring of the use of international standards was a standing item on the agenda of Committee meetings. However, the procedure for monitoring international harmonization was clearly underutilized by Members, as Members chose to raise concerns, even those prompted by the absence of an international standard or non-use of standards, under the agenda item on "Specific trade concerns". Argentina had proposed that the list of standards, guidelines and recommendations included in the annual report prepared by the Secretariat also include related issues raised under the agenda item "Specific trade concerns". Argentina had stressed that this would be without prejudice to a Member's right to determine its appropriate level of protection.

113. Canada and New Zealand had referred to their joint submission (G/SPS/W/257) and agreed that the procedure of monitoring the use of international standards was currently underutilized by Members. They had suggested that, as a first step, Members should start a discussion on why this procedure was not being used. Inputs from the Three Sisters in future discussions on monitoring the use of international standards were considered as essential.

114. The United States had noted that Argentina's proposal seemed to go beyond the scope of the recommendations pertaining to the Third Review, and had raised questions about a Member's right to deviate from international standards.

115. Mexico had suggested that the Committee also address the issue of good regulatory practice, and had indicated that it would be submitting a proposal in this regard.

116. The Secretariat had noted that there were various ways to bring the Committee discussions to the attention of the Three Sisters. In addition to the report of the monitoring procedure, and the presence of the Three Sisters as observers in the SPS Committee meetings, the Secretariat prepared

annual individual reports to the Three Sisters meetings. These reports include information on STCs, the identification of disputes, and, when available, the international standards identified as relevant in SPS notifications. The Secretariat suggested that perhaps the most effective way to inform the Three Sisters on the issues pertaining to the monitoring of international standards was through the active participation of Members in the Three Sisters' activities.

117. The Chairman had suggested that it could be useful if the Secretariat prepared a background document for the Committee's discussion on monitoring the use of international standards that contained relevant information that could be harvested from specific trade concerns, notifications and other documents submitted by Members. The United States had raised concerns that any such background document not contains judgements as to whether any particular measure was in compliance with the relevant international standards.

118. The Chairman reported that on the third prioritized issue on control, inspection and approval procedures (Article 8 and Annex C), Argentina had introduced its submission (G/SPS/W/254) and had noted that the lack of precision characterizing certain provisions in Annex C, as well as the lack of guidelines clarifying their content and scope, had led to significant differences between Members with regard to the design and implementation of their national control systems. Argentina had proposed to focus first on the issue of audits.

119. Canada and New Zealand had referred to their joint submission (G/SPS/W/257) and had noted, along with some other Members, that it would be useful for Members to first provide information regarding their experiences in the implementation of Article 8 and Annex C. The European Union had added that it could share its own experience, in particular on a pre-listing system of exporting establishments.

120. In concluding the meeting, the Chairman had invited Members to submit, in advance of the June meeting of the Committee, other specific inputs on the identified priority issues and on how to advance the work of the Committee on issues resulting from the Third Review of the SPS Agreement.

121. In commenting on the Chairman's report of the informal meeting, the representative of the OIE clarified that the OIE did not actively review the extent to which its standards were being put into practice, what was important was where the non-use of a standard led to a problem. For the OIE, this was primarily in the area of BSE, FMD and avian influenza. The OIE also noted that the box that is ticked to indicate whether a notification is consistent with the international standard did not provide clear information on whether the measure was actually consistent with international standards and that more detail could be provided in the notification of new SPS measures. The representative of the OIE noted that the Committee would need to identify key areas where it would like the Three Sisters to focus to allow the Three Sisters to adequately respond to requests from the Committee.

122. The representative of Chile noted that there could be situations where a country deviated from the international standard without scientific justification but for transparency reasons it was important that this be known. The representative of the European Union stated that while Members preferred to use the agenda items related to information from Members or to specific trade concerns to raise concerns with the use of international standards, it would be better for Members to raise issues under the relevant agenda item. In the meantime, the Secretariat could provide guidance to Members to indicate under which agenda item they wished to raise a specific concern.

123. The Chairman agreed with the European Union suggestion, however many Members tended to attribute more importance to specific trade concerns as they carried more political weight as compared to the remaining agenda items . In addition, many Members devoted the first day of the Committee meetings discussing specific trade concerns and then engaged in other interactions such as bilateral negotiations during the rest of the Committee meeting.

124. The representative of the United States enquired whether the OIE`s intervention had referred to the enforcement of or compliance with standards. As there were already documents which addressed the issues of concern to Members, the United States reiterated its concerns about the nature of the Secretariat background document on the use of international standards.

125. The representative of Argentina clarified that Argentina's concern related to the Committee's annual reports on monitoring the use of international standards only highlighting two or three deviations from international standards which did not reflect reality. The representative of Argentina pointed out that the issue of ractopamine had been included under both monitoring the use of international standards and specific trade concerns. He also added that all Secretariat reports contained a disclaimer.

126. The representative of Canada supported the comments of the European Union and of the Chairman regarding Members making a more considered use of the agenda. Looking at previous airgrams of the Committee, the representative of Canada suggested that one disincentive could have been that for an issue to be reviewed under the Monitoring the use of international standards, it had to be submitted 30 days before the meeting. Although the submission dates now coincide, some delegations might still have been in the mind set of using the specific trade concerns agenda item. Canada is making a more considered effort to place issues in the appropriate agenda items and encouraged others to do the same.

127. The Secretariat agreed with the representatives of the European Union and Canada that Members give more thought to placing their issues under the appropriate agenda item. The Secretariat already provided suggestions to Members if certain issues could be more appropriate under a different agenda item, however the deadline for the request of inclusion of agenda items was eleven days before Committee meetings and the agenda was sent out ten days before the meeting and sometimes not allowing sufficient time to provide feedback to Members. With regards to the background document requested by the Chairman on the use of international standards, the Secretariat stated that this would indeed be a completely factual document as the role of the Secretariat was not to make any judgements concerning compliance or non-compliance with legal obligations.

128. On the proposed programme for a workshop on national coordination (G/SPS/GEN/1067), the representative of the IPPC stated that a lot could be done to work together and coordinate activities better. With regards to monitoring and implementing international standards, the issue was not that of a compliance assessment but rather to encourage Members to implement compliance correctly.

129. The representative of Canada suggested that the IICA handbook on good practices for participating in meetings could also be an important tool to be discussed at the workshop.

130. The representative of Codex stated that Codex had a rather complicated acceptance procedure that had been abolished in 2003 in light of the WTO notification requirements. Since then, the only work on monitoring took place in the regional Codex coordination committees with letters sent in advance of those meetings enquiring about the implementation status of each Member and whether they had encountered difficulties in implementing the standards. Codex was open to sharing the information gathered at those meetings.

131. The Secretariat recalled that the background for selecting the theme of coordination at the national and regional levels for the purposes of the October workshop had come from the 2009 workshop on the relationship between the WTO, OIE, Codex and IPPC. One of the conclusions, and part of the discussions, dealt with improving collaboration between agencies, organisations and Committees as there remained serious national and regional coordination problems. The Secretariat had suggested that it could be helpful if the October workshop could focus on this issue and attempt to identify, through volunteer speakers, good useful practices that were working to provide for good

coordination at both national and regional levels. Two STDF projects that looked at the regional economic commissions of Africa and their SPS protocols and texts could provide a background, however Members were also invited to inform the Committee of any success stories they were aware of so that speakers could be identified for the workshop.

X. MONITORING ON THE USE OF INTERNATIONAL STANDARDS

(a) New Issues

132. No Member raised any new problems which they believed related to the use or non-use of relevant international standards, guidelines or recommendations.

(b) Issues Previously Raised

(i) Brazil – Preservation of Scientific Principles by Codex – Ractopamine

133. The representative of Brazil, supported by Colombia, Costa Rica, Australia, Argentina, Mexico, the United States, Canada, New Zealand and Chile, recalled that the Codex Commission had decided in 2008 to hold the proposals of ractopamine MRLs at step 8 and that Members would send further data to be analysed. To overcome the deadlock on the approval of ractopamine MRLs at the 33rd Session of the Commission, a "Friends of the Chair" group had been established to discuss possible solutions focussing on JECFA risk management. Following the approval by the Codex scientific consultative body, the adoption of the ractopamine MRLs within Codex should not be delayed. Brazil recalled that all countries had the right to adopt any sanitary measures as long as they were scientifically justified and requested the immediate adoption of the ractopamine MRLs. This was of paramount importance for the protection of consumers, the promotion of international trade, for food safety, and for the maintenance of the role of the Codex Alimentarius as an international reference organization in the area of food safety.

134. The representative of Codex stated that the matter of ractopamine MRLs would be examined again at the next Commission and that hopefully members would be able to reach a consensus.

135. The representative of the European Union, supported by Norway and Switzerland, stated that JECFA had provided Codex with a risk assessment and discussions had focused on risk-management. Therefore, while science was indeed a key element, risk managers also had to consider other factors that also impacted on consumers' health. The European Union, as part of the "Friends of the Chair" had actively searched for a solution acceptable to all parties and looked forward to making progress in advance of the July 2011 Codex Commission.

XI. CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS

(a) Report of the *Ad Hoc* Working Group (G/SPS/W/256)

136. The Chairman reported that the working group had completed its work and had presented its report to the SPS Committee. The report was contained in document G/SPS/W/256 and proposed six actions for the SPS Committee. Those six actions were now put forward for endorsement by the Committee. In addition, the report listed, in the Annex, six other actions on which the working group could not reach consensus, along with a brief explanation of the main differences of opinion.

137. The Chairman thanked all the members of the ad hoc working group for their constructive spirit and hard work to come up with some practical actions, as had been requested by the Committee. The Chairman noted that he intended to first invite the Committee to endorse the 6 actions recommended by the working group. Following this, he would propose to organize an open-ended

informal meeting where Members could (i) discuss the process and next steps to be taken with respect to those 6 actions, and (ii) discuss the approach regarding the 6 remaining actions on which the *ad hoc* working group could not find consensus. Finally, the Chairman clarified that endorsement of those actions would be without prejudice to the views of Members regarding the scope of the SPS Agreement.

138. The representative of the United States stated that the work on private and commercial standards had produced concrete and clear results. However it was also clear that there had not been consensus on possible actions seven to twelve. Furthermore, regarding the six actions on which there was consensus, the Committee still needed to consider, given its limited resources, which of those items it would like to further consider, and how to prioritize them. With regards to action one, the United States was concerned about spending additional resources and time on the development of a working definition of private standards. Regarding action six, the United States, supported by New Zealand, noted that private standards were outside the scope of the SPS Agreement, thus any related discussions should be outside the formal and informal sessions of the SPS Committee.

139. The representative of the European Union supported the Chairman's proposal to adopt the working group report and endorse the first six actions. The European Union was particularly attached to the development of a working definition of private standards to ensure a shared understanding of the implications of SPS-related private standards and their impact on trade. However, the European Union was opposed to discussing possible actions seven to twelve, as it was of the opinion that SPS private standards did not fall within the scope of the SPS Agreement.

140. The representatives of Argentina, Paraguay, Brazil, Chile, Cuba, Belize, El Salvador and Mexico supported the Chairman's proposal to adopt the working group report and endorse the first six actions.

141. The representative of the United States, supported by New Zealand, proposed a language change on the text of action six to read: "Members are encouraged to exchange, outside of the formal and informal sessions of the SPS Committee, relevant information regarding SPS-related private standards to enhance understanding and awareness on how these compare or relate to international standards and governmental regulations, without prejudice to the different views of Members regarding the scope of the SPS Agreement.".

142. The representative of Venezuela asked whether the informal meeting would be opened to all delegations and whether the discussions would concern only the first six actions or all twelve actions.

143. The representative of Canada agreed with the European Union on the need to move forward on the first six actions and also noted its lack of support that the remaining actions seven to twelve be further discussed at the June informal meeting. Canada suggested that perhaps paragraph 26 of G/SPS/W/256 could assist in addressing the concerns of New Zealand and of the United States.

144. The Chairman proposed that Members adopt actions one to five and offered Members the opportunity to provide comments on action six until 29 April 2011. Action 6 would then be discussed again at the June informal meeting. In response to a query from the European Union, the Chairman indicated that in addition to discussing how to action the adopted actions, the June informal meeting could also provide an opportunity to agree on the adoption of action six as well.

145. The Committee adopted actions one through five with the understanding that the suggested amendments to action six be circulated prior to the June informal meeting. The Chairman concluded by indicating that an open-ended informal meeting would be scheduled in June to discuss: (1) the adoption of action six as amended, (2) next steps and how to move forward on these agreed actions,

and (3) how to address and further consider the remaining six actions on which the *ad hoc* working group could not find consensus.

146. The representative of the OIE indicated that the OIE pursued its work on private standards to identify existing problems. The OIE would continue to provide updates of its work in the area, as the input of the international organizations was particularly important with regards to looking at what standards were being threatened.

XII. REQUESTS FOR OBSERVER STATUS

(a) *Ad hoc* Observers

147. The Committee agreed to invite all of the *ad hoc* observers to participate in the next Committee meeting, including the informal meeting on *ad hoc* consultations, on private standards and on the Third Review.

(b) New Requests

148. The Secretariat reported that there were five new requests for observer status. While CABI (G/SPS/GEN/121/Add.9), ECCAS (G/SPS/GEN/121/Add.10) and CITES (G/SPS/GEN/121/Add.11) had provided the requested background information, IGAD and COMESA had not yet submitted that information.

149. The representative of the United States stated that the United States was not in a position to approve the requests of the organisations that had provided background information as those were currently under review.

(c) Outstanding Requests (APCC, CBD, GSO, OIV)

150. The representative of the United States reported that the request of the CBD was currently under review.

151. The representative of New Zealand requested clarification as to the time period over which an international organization could remain on the list for requests for observer status. The Chairman responded that the Committee had not decided on actions concerning past requests, hence the Committee would continue to look at those requests until a decision was made.

152. The Committee agreed to revert to these outstanding requests at the next regular meeting.

XIII. ELECTION OF CHAIRPERSON

153. The Chairman informed the Committee that the Council for Trade in Goods had agreed to the election of Mr Deny Kurnia of Indonesia as the new Chairperson of the Committee on Sanitary and Phytosanitary Measures. The Committee endorsed the election of Mr Kurnia by acclamation, and voiced its appreciation to Mr Damico for his considerable efforts and accomplishments as chairperson during the past year.

154. The Chairman expressed his gratitude to the Secretariat and the Members of the SPS Committee for their hard work. The Secretariat also thanked the Chairperson for his work as Chair.

XIV. OTHER BUSINESS

155. The representative of Hong Kong, China reported that on 22 March 2011, the European Union had enacted Commission Regulation No. 284/2011, outlining a more stringent set of testing

controls for the imports of Polyamide and Melamine Plastic Kitchenware, originating in or consigned from China and Hong Kong, China. Hong Kong, China was concerns that while the regulation would take effect on 1 July, it had not yet been notified. Hong Kong, China was also concerned that the restrictions were discriminatory, and that despite bilateral discussions, Hong Kong, China`s concerns had not yet been addressed.

156. The representative of China supported the views expressed by Hong Kong, China and noted that the EU restrictions were discriminatory as they only applied to China and Hong Kong, China. China requested that the European Union provide scientific justification for the measures, and postpone the effective date of the regulation.

157. The representative of the European Union stated that she was not in a position to reply in detail to these concerns. However, the European Union would hold discussions with China and Hong Kong, China in the interim period before the next Committee meeting.

XV. DATE AND AGENDA OF NEXT MEETING

158. The Chairman recalled that the next meeting of the Committee was tentatively scheduled for **29-30 June 2011**. An informal meeting on *ad hoc* consultations, on private standards and on issues arising from the Third Review would be scheduled immediately prior to the next Committee meeting.

159. 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 Observer organizations
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.11
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
   - (b) Issues arising from the Third Review
     - (i) Report on informal meeting

10. Monitoring of the use of international standards
    - (a) New issues
    - (b) Issues previously raised
    - (c) Adoption of annual report

11. Concerns with private and commercial standards
    - (a) Report on informal meeting

12. Observers – Request for observer status
    - (a) Ad hoc Observers
    - (b) New Requests
    - (c) Outstanding requests

13. Other business

14. Date and agenda of next meeting

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

(i) For submitting suggested amendments to the heading of action 6 on private standards (G/SPS/W/256): **Friday, 29 April 2011;**

(ii) For submitting proposals on issues to be considered by the Committee during the Third Review: **Friday, 29 April 2011**;

(iii) For submitting comments on the current working documents relating to *ad hoc* consultation, JOB/SPS/1 and G/SPS/W/243/Rev 4: **Friday, 29 April 2011;**

(iv) For comments on the workshop on National and Regional Coordination as well as suggestions on possible speakers and the agenda**: Friday, 27 May 2011;**

(v) For identifying new issues for consideration under the monitoring procedure, AND for requesting that items be put on the agenda: **Thursday, 16 June, 2011**; and

(vi) For the distribution of the airgram: **Friday, 17 June, 2011.**