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Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 19-20 OCTOBER 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.

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its fifty-second meeting on 19-20 October 2011. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3819).

II. INFORMATION ON RELEVANT ACTIVITIES

(a) Information from Members

2. The European Union indicated that the competent authorities had declared the outbreak of Shiga Toxin-Producing Escherichia Coli (STEC) over on 26 July 2011, the last clinical case having been verified 4 July 2011. The European Union urged Members to lift any remaining import restrictions in relation to the incident.

3. Japan provided information on its response to the March 2011 nuclear plant accident. The disaster-afflicted area and its economy had made steady advances in reconstruction and supply chains had been almost completely restored. Japan was providing timely information to its trading partners, and distributed additional background documentation to the Committee.

4. Madagascar informed that its access to the EU market for products of animal origin had been authorized effective 1 July 2011, provided that these products complied with current EU health regulations (G/SPS/GEN/1113). The European Union appreciated Madagascar's efforts in complying with its import requirements, and looked forward to seeing trade resume in the products concerned.

5. Canada reminded Members of the upcoming entry into force of its regulatory changes to prevent the introduction and entry of aquatic animal diseases, notified in G/SPS/N/CAN/415 and Add.1. As of 10 December 2011, importers of the aquatic animals listed in the amended regulations would need an import permit issued by Canada and a zoosanitary certificate signed by the competent authority of the exporting country. Trading partners exporting regulated aquatic animals to Canada would need to negotiate zoosanitary certificates with Canada by this date (G/SPS/GEN/1122).

6. Mexico gave details on the "Mexican Electronic Foreign Trade Window", established through a presidential Decree of 14 January 2011 (G/SPS/W/264). The electronic window would provide a single reception point for foreign trade-related information, and would incorporate the foreign trade procedures of the National Agriculture and Food Health, Safety and Quality Service (SENASICA) as of 31 January 2012. Mexico suggested that the Committee discuss and recommend ways to help Members and international bodies to harmonize electronic sanitary and phytosanitary certification procedures. Senegal welcomed Mexico's statement, and shared its own experience with national electronic circulation of documents.

7. Korea reported that after the outbreak of highly pathogenic avian influenza (HPAI) on 29 December 2010, it had implemented a stamping-out policy and disinfected the affected and neighbouring farms (G/SPS/GEN/1116). Culling and disinfection on the last infected premises had been completed on 23 May 2011, and there had been no further outbreaks. Korea had declared itself an HPAI free country as of 23 August 2011 in accordance with Chapter 10.4 of the OIE Terrestrial Animal Health Code 2011, and had notified this to the OIE on 5 September 2011.

8. Argentina drew the Committee's attention to the declaration of the 36th Ministerial Meeting of the Cairns Group, which had touched upon sanitary and phytosanitary matters (WT/L/821).

(b) Information from Observer Organizations

9. The OIE outlined developments in its standard-setting work programme, with a focus on the September 2011 meeting of the OIE Terrestrial Animal Health Standards Commission (G/SPS/GEN/1120). Official recognition of freedom from African horse sickness, classical swine fever and peste de petits ruminants was being considered. A number of modifications to the OIE Basic Texts had been adopted at the May 2011 General Session, and terminology in the Terrestrial Animal Health Code (Terrestrial Code) had been modified as regards risk assessment. The OIE was working on a new chapter on "safe commodities", potentially for adoption at the General Session in May 2013. The OIE was collaborating with Codex on standards related to food safety hazards arising at the "on-farm" phase of food production. Proposed modifications to the OIE standard-setting procedures had been annexed to the report of the Terrestrial Code Commission's September 2011 meeting and Members could comment on that document.

10. Morocco highlighted the importance of regionalization and compartmentalization for developing country exports, and encouraged the OIE to work further on these themes. The OIE noted that the Terrestrial Code contained chapters on zoning and compartmentalization, and guidelines and checklists on the issue were available on the OIE website.

11. The IPPC reported on a focus group meeting to review the IPPC standard setting process and on an online system through which countries could submit comments on draft ISPMs. An ePhyto standard for electronic phytosanitary certification would be tested by end-2011. The IPPC highlighted cooperation with OIE and Codex, and welcomed closer engagement with the WTO SPS Secretariat. A strategic plan for the next eight years would be submitted for adoption by the Commission on Phytosanitary Measures in March 2012 (G/SPS/GEN/1123).

12. Australia stressed the importance of the IPPC's standard-setting activities, and commended the strategic plan. It encouraged all Members to lobby for increased core funding to enable the IPPC to carry out its functions. Australia had provided US$570,000 to the IPPC in 2011. The European Union agreed on the importance of the IPPC work and announced €800,000 of additional funding to ensure continuation of the IPPC helpdesk; it had earlier provided €400,000 for the IPPC's Implementation Review and Support System (IRSS). Korea also encouraged Members to contribute to IPPC projects.

13. New Zealand repeated its earlier suggestion that the IPPC Secretary give a presentation of the IPPC's operational plan to a future meeting so that Members could better understand its goals, objectives and strategy, and identify areas where further assistance is required.

14. The United States noted that the encouragement of broader cooperation between the IPPC, Codex and OIE would have budgetary implications, and urged Members to support the IPPC accordingly. Chile observed that the area of electronic certifications could be one where the IPPC, Codex and OIE could enhance cooperation. Senegal enquired whether agricultural re-export certificates had been considered in the development of the electronic phytosanitary certification system. Senegal also thanked the IPPC and Standards and Trade Development Facility (STDF) for their regional fruit fly control programmes.

15. Codex outlined its activities since the last Committee meeting (G/SPS/GEN/1126). At its 34th Session in July 2011, the Codex Commission had adopted 31 new or revised standards, and considered its strategic plans for 2008-2013 and 2009-2014. Codex explained its cooperation with OIE in standard-setting work, and drew attention to forthcoming Codex meetings.

16. The Community of Sahel-Saharan States (CEN-SAD) described capacity-building programmes carried out jointly with the African Union and other regional economic communities

under the "Participation of African Nations in Sanitary and Phytosanitary Standard-Setting Organizations" (PAN-SPSO) project, and noted that these programmes had enabled it to coordinate SPS activities in countries and establish common positions for Codex, IPPC and OIE meetings.

17. The Southern African Development Community (SADC) summarized developments with regard to the SPS Annex to the SADC Protocol on Trade. A new SADC Regional SPS Coordinating Committee had (i) worked to develop cooperation between SADC member states in the transfer of expertise; (ii) reviewed the SPS Annex to align it fully with the SPS Agreement and avoid duplication of efforts in implementation; and (iii) urged SADC member states to establish national SPS Committees. SADC thanked the European Union, the African Union-InterAfrican Bureau for Animal Resources (AU-IBAR), the WTO and the STDF for their assistance in specific projects. In July 2011, SADC Ministers of Agriculture had adopted guidelines for the regulation of food safety, regulation of crop protection, and veterinary drug registration. In September, the 4th Regional SPS Stakeholder Assembly had taken place, as well as training on the WTO SPS Information Management System.

18. Mali, Senegal and Togo expressed their appreciation for CEN-SAD, COMESA and the PAN-SPSO project, which had improved their SPS capacities, and particularly enabled Mali and Togo to establish national SPS committees. Zambia commended SADC on its work on information management and notifications. Zambia also thanked the STDF for its work on the multi-criteria decision analysis tool, which was greatly appreciated by the donor community.

III. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

19. The Chairman recalled that in accordance with Paragraph 18 of the Protocol of Accession of the People's Republic of China, the SPS Committee was to undertake this year a final review of the implementation by China of the SPS Agreement. The European Union had submitted its questions and comments on the subject in document G/SPS/W/262.

20. The European Union observed that the Transitional Review Mechanism was a very important and useful instrument, which allowed Members to exchange views regarding China's efforts to comply with its WTO obligations. It noted the considerable amount of work that China had undertaken to revise its food safety standards, and encouraged China to continue efforts in order to fulfil the responsibilities that follow from WTO membership. The European Union noted that it had shared its specific comments and questions in document G/SPS/W/262, and highlighted that in its view, (1) China had not fully fulfilled its transparency obligations as regards availability of legislation in at least one WTO working language and possibilities to comment on all draft legislation, and that (2) China had not yet aligned its legislation to several international standards, or alternatively submitted scientific justification to support all the SPS measures applied. Under the second point, the European Union expressed concerns over the differences between the Chinese list of authorized food additives and processing aids and the list considered safe by international standard-setting bodies, noting that China had not given a scientific justification for this deviation; and on a BSE-related import ban on EU beef and other bovine products despite an OIE classification of EU member States as either "controlled risk" or "negligible risk" countries. Lastly, the European Union expressed concerns over China's approach to audits and inspections, and flagged that an approach that builds on the relevant Codex Alimentarius standard would be the key to avoid unjustifiable delays.

21. The United States shared the concerns of the European Union as regards transparency, noting that China did not appear to have notified all proposed SPS measures as required by the SPS Agreement. It also shared the concerns as regards BSE-related import bans, and highlighted in this respect that the OIE had classified the United States as a "controlled risk" country. Further, the United States had specific concerns regarding China's new food registration requirements, notified to

the WTO as G/SPS/N/CHN/472, as well as China's zero tolerance limit for certain pathogens in imported raw meat and poultry. Finally, the United States expressed concerns regarding bans on poultry from various US states in response to cases of low-pathogenic avian influenza (AI), stating that these bans were applied beyond the OIE guidance period.

22. Mexico echoed the EU concerns on transparency, and encouraged further efforts by China in terms of publication of standards, technical regulations and other measures, and in making their texts available in at least one WTO working language. On a related point, Mexico expressed its appreciation for the Chinese notification on hygiene standards for distilled liquors and by-products, and noted that it had used this opportunity to provide relevant scientific information on tequila. Mexico also expressed concerns over the control, inspection and approval procedures applied by China, noting that they had been excessively long, and that for certain agricultural products, access to the Chinese market had required bilateral negotiations and additional agreements or protocols. Mexico further highlighted that with certain products, such as pig meat, little progress had been made in this respect.

23. Japan also shared the EU concerns as regards transparency. According to Japan, it appeared that China had not fully complied with its obligation to publish all proposed SPS measures and regulations and to provide a reasonable period for public comments.

24. China thanked the European Union, the United States, Mexico and Japan for their statements, and offered some clarifications and responses to the questions posed. At the outset, China stated that it had eliminated all non-tariff measures and reduced the average tariff on goods, and had overhauled its body of laws and regulations at central and local levels. These achievements, China noted, contributed to full compliance with WTO rules and had a positive effect on trade promotion and facilitation at the multilateral level.

25. China flagged that, as a developing country, it had overcome great capacity constraints to fully honour the principle of transparency. It detailed the numbers of measures notified and enquiries and comments dealt with, and observed that it had dedicated considerable resources to publish its SPS measures in a timely manner. China also stated that it had done its best to provide a sufficient comment period on new SPS measures, as well as to translate the draft measures as frequently as possible into at least one WTO working language.

26. China noted that most of the questions posed by the European Union had already been addressed in previous reviews or discussions, including at a bilateral meeting with the EU delegation the previous day. Nonetheless, China addressed some of the specific questions posed.

27. On the EU question on food additives and processing aids, China noted that its practice not to allow the use of additives in food unless their technical necessity and safety had been proven was in line with the principles upheld by the Codex Alimentarius Commission. It further referenced bilateral talks held with the European Union on China's Administrative Licensing Procedures for New Varieties of Food Additives, and noted that the European Union could encourage its companies to submit their applications to the competent Chinese authority in accordance with these procedures.

28. In relation to the questions posed on BSE, China reiterated that it was a BSE-free country, and stated that it had adopted its current policy on BSE prevention in a most serious, scientific and prudent manner, while taking an open and cooperative approach to engage with the Members concerned. At a seminar held jointly with the European Union in March 2011, experts from both sides had agreed that the pathology of the disease and the way it spreads were not thoroughly understood. China expressed its willingness to continue to cooperate with Members suffering from the disease, including the European Union.

29. China noted that the European Union had put forward in its written submission that China's continued additional trade requirements on live pigs from EU member States due to the pandemic influenza virus H1N1 were unnecessary and unjustified, and not in line with statements made by the main relevant international organizations such as OIE, WHO and FAO. Although the European Union had not addressed this issue in its oral statement, China provided clarification of its approach to preventing H1N1. China followed a two-fold approach: first, there could be no H1N1 outbreak on the exporting farm or within a 50-kilometre radius; and second, live pigs were to be duly tested for H1N1 before they could be exported from the country concerned. China observed that it had reached agreements with Denmark, France, Ireland, the Netherlands and the United Kingdom, and these countries were now engaging in the live pig trade with China as usual.

30. In conclusion, China noted that it was ready and willing to continue discussions with Members in all appropriate arenas.

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

31. The Chairman 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 Agreement. He would follow the normal practice of first giving the floor to the Member(s) raising the issue, 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) Malaysia's Import Restrictions on Pork and Pork Products - Concerns of the European Union

32. The European Union indicated that it had concerns with Malaysia's import restrictions on pork and pork products, imposed 1 July 2011. In bilateral discussions, however, the European Union had received guarantees that the restrictions would shortly be lifted. The European Union would continue to work closely with Malaysia to ensure that EU exports could resume in line with WTO obligations.

33. Canada shared the EU concerns as its pork and pork product exports had also been banned since 1 July 2011 without notification. Malaysia had not advised Canada about the revision to its import requirements or the ban, and Canada had received conflicting information from Malaysia with respect to import requirements for pork. Canada encouraged Malaysia to base import conditions on science, and consider a systems approval approach for pork imports, rather than a plant-by-plant approval.

34. The United States also expressed concerns that the new import requirements had been imposed without valid scientific evidence. The United States had been told in June 2011 that it could continue to export pork and pork products if it submitted an establishment questionnaire by 1 July 2011; however, imports had been stopped. The United States would continue to work with Malaysia to facilitate an audit of US food safety systems, but expected a successful audit that would allow all federally inspected pork establishments to be eligible to export to Malaysia.

35. Malaysia observed that bilateral consultations on this issue were on-going with the affected Members and it hoped to resolve the issue as soon as possible.

(ii) China's Requirement for Registration and Supervision of Foreign Enterprises - Concerns of India

36. India raised concerns over China's notification on "Provisions on the Administration of the Registration of Foreign Manufacturers of Imported Foods" (G/SPS/N/CHN/472) of 19 August 2011. Foreign manufacturers of foods listed in a "Catalogue of Registration of Foreign Manufacturers of Imported Foods" would not be able to export their products to China without registration. India enquired when this catalogue would be issued and requested further information on possible registration fees and processing times.

37. The European Union echoed these concerns, and indicated that it had provided written comments on the notified measure, and hoped that China would take them into account. The requirements in the notified measure seemed burdensome and costly, and not necessarily in line with the requirements of the SPS Agreement.

38. China explained that the notified measure was not new, but would repeal the original registration requirement, established in March 2002. The registration procedures would not include fees, only guidance on how to register. The question whether there would be any other charges was still under discussion, and would be announced separately after approval. Registration renewal should be requested before expiration, and as food enterprises were categorized according to different risk levels, the application process and specific verification requirements would differ accordingly.

(iii) EU Regulations on Cadmium in Cocoa Beans - Concerns of Ecuador

39. Ecuador expressed concern that the European Union was considering modifying the maximum level of cadmium in cocoa and cocoa products, and was planning to apply a maximum limit between 0.3 and 0.5 milligrams per kilogram (mg/kg), in the context of Regulation (EU) No 420/2001. Ecuador urged the European Union to base any maximum limits on cadmium on appropriate scientific studies. The Joint FAO/WHO Expert Committee on Food Additives (JECFA) had established a level of acceptable weekly consumption of 5.8 micrograms of cadmium per kilogram of body weight (µg/kg), more than twice the tolerable weekly intake concluded by the European Food Safety Agency (EFSA). Ecuador requested further information on the EU risk analysis, and stressed that any possible maximum residue limit (MRL) should be set as low as reasonably possible (ALARP principle). Some of Ecuador's soil contained cadmium, but it had adopted mitigation measures so as to produce high-quality cocoa not detrimental to human health.

40. Brazil, Colombia, Costa Rica, Dominican Republic, Nicaragua, Peru and Venezuela shared the concerns raised by Ecuador. They asked the European Union to provide the technical and scientific basis on which it was considering regulating cadmium in cocoa and chocolate, and stressed that any possible maximum limits should be based on science.

41. The European Union recalled that neither it nor Codex had established a maximum level for cadmium in cocoa or cocoa products to date. However, JECFA had reviewed its toxicity in commodities in 2010 and set the tolerable weekly intake at approximately six micrograms per kilogram of body weight. In contrast, EFSA had identified a lower tolerable weekly intake of 2.5 µg/kg of body weight in 2009 and in 2010. Based on the 2009 and 2010 EFSA scientific opinions for cadmium, the European Union had initiated a review of maximum levels for cadmium in different types of foodstuffs, including chocolate and cocoa products sold to the final consumer, since cocoa and chocolate products contribute significantly to human exposure and in particular exposure of children. Discussions were still on-going, but any limits would be based on realistic occurrence data of cadmium in cocoa and cocoa products compiled from different geographical origins and would be set as low as reasonably achievable.

(iv) Thailand's Restrictions on Table Grapes, Apples and Pears - Concerns of South Africa

42. South Africa indicated 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 No. 3. 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. South Africa had sought to invoke this provision, which allowed for a case-by-case approval, and had proposed certain minimum requirements until the PRA was completed. South Africa urged Thailand to apply the interim arrangement to its exports, and to conclude the PRA so that trade in the affected products could resume.

43. Thailand confirmed that the importation of certain fresh fruit and plants was prohibited until the national plant protection organization (NPPO) had completed a PRA. South Africa had been granted an interim exemption for its corn exports, but had not requested exemptions for any other fresh produce within the set deadline. Thailand suggested that the NPPOs of both countries engage directly to find a mutually satisfactory solution to the issue.

(v) EU Court of Justice Ruling regarding Pollen Derived from GMOs - Concerns of Argentina

44. Argentina stated that on 6 September 2011, the European Court of Justice (ECJ) had adopted a new interpretation of the scope of EC Regulation No. 1829/2003, considering pollen derived from GM crops as an ingredient of honey and not a natural component. This was in conflict with the Codex standard for honey. The ruling resulted in legal uncertainty, which lead European importers to interrupt purchases of honey produced in Argentina pending the implementation of the ruling, to the detriment of the very small scale beekeepers and regional economies that depended on this activity. Argentina requested the European Union to promptly take all necessary measures to remove the uncertainty caused by the ECJ judgment, and to ensure that implementation of the ECJ judgment did not restrict honey imports.

45. Canada, Mexico, Paraguay, the United States and Uruguay shared the concerns of Argentina. Mexico expressed its appreciation for having been invited for further discussions in Brussels on the implementation of the ECJ decision. Brazil emphasized that the EU policy regarding GMOs was trade restrictive and observed that it faced similar problems concerning red beans.

46. The European Union observed that honey containing GM pollen had previously been considered to be outside the scope of the relevant legislation. Following the ruling, GM pollen in honey must be explicitly authorized before entering the EU market, and imported honey products which contained GMOs that were not authorized for use in pollen would not be allowed. Even though the specific GM crop in this case (MON 810) had been authorized in the European Union for more than ten years, it had not been authorized for uses which included pollen. The European Union was taking steps to fill the existing regulatory gaps until EFSA provided an opinion on the safety of the MON 810 pollen in honey, and was considering how to ensure the proper implementation of the ruling without unnecessarily disrupting the supply of honey to EU consumers. It would be holding open dialogues with its member States, all interested third countries and other stakeholders.

(vi) US Default MRLs, Limits of Determination or Limits of Quantification on Basmati Rice - Concerns of India

47. India stated that in August 2011, the US FDA issued an import alert because of the presence of the fungicide Tricyclazole in a shipment of Basmati rice. The shipment was detained without informing either the Indian Government or the exporter, and all subsequent consignments of Basmati rice by that exporter were detained without physical examination. The US tolerance was at the Limit of Quantification, and consignments were being rejected for Tricyclazole residues exceeding

0.01 ppm. These detentions and the imposition of testing charges had resulted in huge losses to the exporter. Tricyclazole was a fungicide used for treatment of Blast in rice. The US tolerance limits conflicted with Article 5.4 of the SPS Agreement, which required Members to take into account the objective of minimizing negative trade effects, as Tricyclazole was widely used in India, China, Japan and Thailand for treatment of Blast. Further, Article 5.5 was not respected as the FDA permitted MRLs of Tricyclazole in rice bran, rice hulls and rice polishings of up to 30 ppm. No risk assessment, as mandated by Articles 2.2 and 5.1, seems to have been undertaken while setting the tolerance limit for Tricyclazole. India argued that the practice of setting default limits was contrary to the core principles of the SPS Agreement as there appeared to be no scientific justification, and it seemed to be contrary to the principle of harmonization of Article 3.

48. The United States replied that under the US Food, Drug, and Cosmetic Act, a food was deemed adulterated if it contained a pesticide for which there was no EPA-established tolerance or exemption, and food that is adulterated is not admitted into the United States. Several firms and products, had been added to FDA's Import Alert #99-08, "Detention Without Physical Examination of Processed Foods due to Illegal Pesticide Residues" Products, including persimmon and rice flour, as well as basmati rice from three countries, had been subject to an Import Alert due to detection of Tricyclazole. The Government of India and the exporter were notified about the detention. When a shipment was detained, the importer had the opportunity to demonstrate that the shipment did not contain the residue, and FDA usually accepted private laboratory analysis as evidence that there are no residues. No tolerances for the use of Tricyclazole as a pesticide in rice had been established by EPA. The EPA had established tolerances for rice for three alternative fungicides, namely Azoxystrobin, Propiconazole, and Trifloxystrobin. India could use one of the alternative fungicides to combat rice Blast or work with EPA to establish a tolerance for Tricyclazole in the United States. The Codex had not established a maximum tolerance level for Tricyclazole in any food. The United States encouraged India to work with EPA and FDA to address the concerns.

(b) Issues Previously Raised

(i) EU Regulation on Polyamide and Melamine Plastic Kitchenware - Concerns of China (No. 322)

49. China recalled that EU Regulation No. 284/2011, adopted in March 2011, required special measures on imports of polyamide and melamine plastic kitchenware produced in or shipped from mainland China and Hong Kong, China. Consultations with EU officials had not resolved the problem. China requested all notifications concerning plastic kitchenware under the Rapid Alert System, not only those from China and Hong Kong, China, to ensure that the EU measures were not arbitrary or unjustifiably discriminatory. China also requested the European Union to provide data, its risk analysis, and testing reports of the substances found in plastic kitchenware, to prove the measures were based on sufficient scientific evidence.

50. Hong Kong, China was also concerned that the EU measure was discriminatory, as it imposed more stringent import requirements on consignments from Hong Kong, China compared to other countries. The EU regulation was not based on an international standard, and Hong Kong, China urged the European Union to eliminate any discrimination against products originating in or consigned from Hong Kong, China.

51. The European Union indicated that it had explained the scope of the regulation and its applicability in bilateral discussions with China, in November 2010, and also with Hong Kong, China, and had sent copies of the final draft regulation to the respective relevant authorities both before and after the discussions. An EU contact point had been established to help exchanges between the competent authorities. The measure had been notified to the WTO at the beginning of July 2011 (G/SPS/N/EEC/406) to ensure that Members would better understand the discussions on this trade

concern. Mandatory border controls for plastic kitchenware imported from China and Hong Kong, China had been imposed as of 1 July 2011 due to the high number of alerts received regarding the non-compliance of these products. The inspection missions carried out by the EU Food and Veterinary Office (FVO) to China and Hong Kong, China had also shown that China had deficiencies in its export control systems for these products. The particular measures in question were applied only to China and Hong Kong, China, but were not discriminatory. The measures did not impose burdens additional to what was applicable to EU products, were limited to the extent necessary to control the identified risks, and were scientifically justified on the basis of an opinion from EFSA. The measures would remain in place until the border controls revealed a significant drop in non-conforming products, and China's export controls were improved.

(ii) US Food Safety and Modernization Act - Concerns of China and India (No. 299)

52. China emphasized the importance of food and agricultural exports for developing country Members, and urged the United States to provide a sufficient transition period before implementation of the US Food Safety Modernization Act (FSMA), as well as technical assistance for Members to adapt to the new requirements.

53. India stated that the FSMA created extra burdens for exporters and lead to higher transaction costs. India argued that various provisions of the FSMA did not reflect the core principles of equivalence (Article 4) and harmonization (Article 3) of the SPS Agreement, and urged the United States to ensure the FSMA was in line with the SPS Agreement so as not to affect trade between Members. India's key concerns related to the registration of Foreign Food Facilities, the Voluntary Qualified Importer Program, Certification and Audit and the Foreign Supplier Verification Program.

54. The United States noted that FDA was as transparent as possible, including making presentations to the SPS Committee, holding numerous outreach sessions with all stakeholders, keeping current information on the Web. The United States was committed to implement FSMA in a transparent manner consistent with its WTO obligations and would take into account relevant Codex standards and guidelines. The FDA had issued interim final rules requiring persons submitting prior notice of imported food to report any other countries' refusal of the food (G/SPS/N/USA/690/Add.11) and had also amended criteria used to order administrative detention of food for human or animal consumption (G/SPS/N/USA/704/Add.2). The FDA had not yet issued regulations for the FSMA provisions for the foreign supplier and voluntary importer programmes. Members could comment when the proposed rules were notified. The United States welcomed Members' perspectives on implementation of the FSMA.

(iii) Japan's MRLs applied to Cacao - Concerns of Ecuador (No. 283)

55. Ecuador recalled that in June 2005, Japan had notified its intention to apply a positive list system for the adoption of MRLs, however, the document annexed to the notification did not indicate that the MRLs would be 0.01 ppm. The result was that while 12 companies used to export cacao to Japan, now only five could do so. In 2006, sales to Japan were US$20.7 million, and accounted for 12.4 million metric tons. However, between 2007 and 2010 both the volume and value of exports dropped by more than 60 per cent. Since the issue was first raised, many Members had repeatedly asked Japan to provide its risk analysis to scientifically justify the application of the MRLs. Ecuador urged Japan to consider the EU methodology of analyzing residues in the kernel and not on the husk, and to accept the International Cocoa Organization (ICCO) standards. Paraguay shared the views of Ecuador and emphasized that the MRLs must be science-based.

56. Japan observed that it had repeatedly requested the Government of Ecuador to file an application with the relevant Japanese authorities to revise the MRLs, providing sufficient data. The

current 0.01 ppm limit was the same used by the European Union. Before the MRL was set, Japan had notified the WTO in accordance with the SPS Agreement.

(iv) Viet Nam's Ban on Offals - Concerns of the European Union and the United States (No. 314)

57. The European Union indicated that Viet Nam's ban, in place since July 2010, seriously affected EU exports of offal, and recalled that Viet Nam had previously indicated its intention to conduct a risk-assessment. Viet Nam claimed to have taken these measures because imported frozen animals and animal products were found to violate its food safety requirements. However, Viet Nam had indicated that no violations were found on EU products, and as such import bans on EU offal were not justified. Moreover, since there were no similar measures on domestic offal, the measure discriminated against foreign imports. The European Union welcomed Viet Nam's partial lifting of the ban on red offal, and looked forward to Viet Nam's commitment to lift the ban by end of 2011.

58. The United States shared concerns about Viet Nam's restrictions on offal without any scientific justification or notification being provided to the WTO or trading partners. After months of discussions, the Ministry of Agriculture and Rural Development (MARD) had provided an official indication in July 2011 that it would lift its ban on red offal, and later on products derived from cattle. However, all other products, such as stomachs and intestines derived from cattle, swine, and poultry, remained banned. The United States urged Viet Nam to lift all of the bans on offal immediately.

59. New Zealand supported the systemic concerns expressed by the European Union and the United States, specifically with regard to the lack of notification and scientific justification.

60. Viet Nam reiterated that the temporary measure was geared at protecting human health from risks arising from contaminants, toxins or disease-causing organisms in food, and that the measure did not aim to impose trade restrictions. In light of the concerns of its trading partners, Viet Nam was considering how to prevent a negative trade impact from the measure, and had already lifted the ban on red offals. However, as a developing country with limited resources, the Vietnamese authorities needed time to collect the information for risk assessments. Viet Nam urged trading partners to provide relevant information and technical cooperation to facilitate the process.

(v) Japan's Prohibition of Certain Food Additives - Concerns of India (No. 307)

61. India remained concerned that food additives were being prohibited on the basis that they were not in use in Japan, without a risk assessment. Japan had stated at the last Committee meeting that it was willing to update the list of food additives, if India provided information that these items were actually in use in the Japanese market. In this regard, India was working to get the necessary information and provide the relevant documents to Japan as soon as possible. In the meantime, India urged Japan to temporarily permit the use of these additives while Japan conducted the risk assessments.

62. Japan reiterated that as of 6 May 2011, 55 substances had been withdrawn from the list of existing food additives, as the list of food additives was up-dated by removing those that were no longer in use in the Japanese market. However, in accordance with the Food and Sanitation Act, if an application were filed that provided relevant evidence that any of the withdrawn substances were still in circulation in the Japanese market, the authorities would update the list.

(vi) Chinese Taipei's Prohibition on Ractopamine in Beef and Pork - Concerns of the United States (No. 275)

63. The United States observed that ractopamine was approved for use in the United States and 25 other countries. In 2007, Chinese Taipei had conducted its own risk assessment and determined

ractopamine was safe for use in cattle and swine, and notified its intention to implement MRLs for ractopamine consistent with the draft Codex MRLs (G/SPS/N/TPKM/114). However, staunch opposition by pork producers to foreign imports resulted in delays in the implementation of the draft MRLs. These actions raised concerns because there was no scientific basis for questioning the safety of the use of ractopamine within the MRLs set by the United States, Canada, Japan, Korea and many other countries. The failure of Chinese Taipei to adopt measures based on its own risk assessment resulted in significant trade barriers for US exports of beef and pork. In order to avoid further unjustified restrictions, Chinese Taipei should immediately implement the 10 ppb MRL that it had notified in August 2007. The United States encouraged Chinese Taipei and all Members to ensure that measures were based on science, and not to use media to unnecessarily scare consumers in order to maintain trade barriers.

64. Canada shared the concerns of the United States regarding the lack of scientific justification for the prohibition of ractopamine in pork and beef, and the creation of considerable uncertainty for beef and pork exporters. Based on a comprehensive risk assessment, Canada had approved the use of ractopamine as an ingredient in feed for pigs in 2005 and for cattle in 2007, and established MRLs for ractopamine in edible swine and cattle tissues. The scientific assessments conducted by Codex and JECFA supported the adoption of MRLs for ractopamine. Given the extensive scientific evidence, Canada requested Chinese Taipei to reconsider its current prohibition.

65. Brazil, Costa Rica, Ecuador and Peru expressed systemic concerns on the prohibition of ractopamine, including the lack of a scientific basis for such prohibitions, and were also concerned that the MRLs for ractopamine had not yet been adopted by Codex. Brazil emphasized that ractopamine had been proven safe and effective as a veterinary drug that increased feed efficiency, had undergone human and animal safety studies and been approved in 26 countries.

66. Chinese Taipei responded that it was continuing to investigate the adverse effects of this drug on human health, as it had fully explained at previous SPS Committee meetings, while increasing its efforts regarding risk communication.

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

67. India recalled that the European Union had previously claimed to have a non-discriminatory, open, transparent and predictable procedure for setting MRLs. However, India questioned the scientific basis for using the level of detection (LOD) method and for setting MRLs for certain pesticides at default levels of 0.01 mg/kg, as well as the validation testing methods used by the European Union to arrive at the level of detection. The EU method of setting MRLs was discriminatory as it affected the trade of certain products and did not conform to the SPS Agreement. India had been informed that a Member could apply for a higher MRL, however the EU procedure was lengthy, costly and burdensome. India urged the European Union to replace its ad hoc discriminatory, opaque, and unscientific measures with more predictable and science-based ones.

68. The European Union stated that the legislative framework in operation since 2008 completed the harmonization and simplification of pesticide MRLs, and the details of the EU pesticides policy had been presented at the March SPS Committee meeting. Trading partners could apply for an MRL that was greater than what was foreseen in the EU legislation by providing scientific evidence justifying the higher level. The procedure was non-discriminatory, open and transparent. Setting the MRLs at the default level for some pesticides facilitated trade, in contrast to a zero-tolerance approach. Trade had not been interrupted as a result of this legislation, and particularly not in commodities of interest to India. In line with the EU legislation, India had applied for a higher MRL for Isoprothiolane on rice, and submitted complementary information. An opinion from the EFSA was expected in the first quarter of 2012, and on the basis of this evaluation, the European Union would decide whether a higher MRL could be safely set.

(viii) Turkey's Restrictions on Products Derived from Biotechnology - Concerns of the United States (No. 302)

69. The United States stated that Turkey's new biosafety law restricted access for many US products derived from agricultural biotechnology. Trade had been re-established only for some products previously approved for import. The January 2011 approval of three soy beans events for feed use was welcome, however, these events had previously been permitted also for use in food production. No other events were approved for either food or feed use, although such products were permitted prior to the biosafety law. Despite numerous bilateral discussions, many of the provisions of the regulatory system remained unclear. The system prohibited the presence of biotechnology in products for infants and children, or the cultivation of biotechnology crops, without a risk assessment or scientific evidence. The criteria to evaluate biotech products for import was not clear, which lead to unpredictability in the approval process. Turkey's ban on industrial use and cotton certification requirements appeared unnecessary and raised concerns among importers about possible legal consequences. The recent decision to allow soy bean oil to be used in the paint sector was a step in the right direction. The United States reiterated its interest to work with Turkey to develop solutions that would resolve the current problems and prevent future disruptions to trade.

70. Canada supported the United States. Canada appreciated Turkey's recent response to its letter on GMO regulation, but a number of questions and concerns which had been raised at previous SPS Committee meetings and bilaterally remained. Several provisions of the regulation lacked a scientific basis and were unduly restrictive on trade, in particular the provisions related to the GMO approval process, the liability provision, a ban on GMO cultivation, mandatory labelling, and the certification and inspection regime. Canada also asked Turkey to notify its implementation directives in order to clarify the authorization status of GMOs in Turkey. Argentina supported the concerns of the United States and Canada, and urged Turkey to bring its biotechnology regulations into line with the SPS Agreement.

71. Turkey responded that its biosafety regulations had been notified in 2009 and 2010 (G/SPS/N/TUR/7 and G/SPS/N/TUR/8). Turkey had taken into consideration the comments from five Members during the preparation of the legislation. Implementation of the legislation started on 26 September 2010, following a six-month transition period, and since then 184 transactions had been completed and over one million tons of products derived from GMOs imported into Turkey. About one-third of these importations came from the United States, about 16 per cent from Argentina and 3 per cent from Canada. Around 80 applications for authorization were being examined by the scientific committee in the relevant ministry, however, there were limits to their technical capacity to expedite the process. No application for authorization had been rejected to date. Furthermore, since the last SPS Committee meeting, agricultural imports had continued to increase at a significant rate; there were no disruptions of trade due to the biotechnology legislation. Turkey was willing to further clarify the legislation and its implementation to interested Members.

(ix) Application and Modification of the EU Regulation on Novel Foods - Concerns of Peru (No. 238)

72. Peru recalled its concerns about Regulation 258/97 that restricted foods which were not marketed in the European Union before May 1997 and had therefore been categorized as novel foods (G/SPS/GEN/1117). This particularly affected trade in Peruvian traditional foods that were safely sold in the United States and Japan. Brazil, Chile, Columbia, Costa Rica, Ecuador, Mexico and Paraguay shared the concerns raised by Peru.

73. The European Union stated that foods were considered novel under Regulation 258/97 if they were derived from new technological processes or if they had no significant history of consumption in Europe. In January 2008, steps were taken to update the existing novel food rules in an effort to

facilitate applications for novel food authorizations and to simplify market access for traditional foodstuffs which had a history of safe food use. However, the proposal submitted to the co-legislators was not adopted, and there was as yet no new novel food regulation. Nonetheless, agreement had already been reached between the European co-legislators that any new regulation would contain a centralized and quicker authorization procedure for novel foods and specific measures for traditional foods.

(x) Philippine Restrictions on Imported Fresh Meat - Concerns of the United States (No. 320)

74. The United States stated that Administrative Order Number 22 (AO 22) of the Philippines had disproportionately affected trade from other countries. It was not clear why the prescribed cold chain requirement for frozen, chilled meat and chilled meat products, which were primarily imported, was not being equally applied to fresh meat. The traceability, packaging and labelling requirements in both AO 22 and the new draft Administrative Order imposed additional burdens on the marketing and sale of frozen meat and meat products in the Philippines, yet there was apparently no risk assessment to support the adoption of these measures. There seemed to be no scientific justification for this requirement, which appeared to discriminate against imports, and which undermined the food safety advantages of frozen meat. The United States requested the suspension of AO 22 as well its notification to the WTO.

75. Canada and the European Union shared the concern that AO 22, as well as its draft replacement, only addressed the safety of frozen chilled meat and provided no scientific rationale for imposing different food safety measures than for fresh meat, which disproportionately affected imported meat. Canada noted its current work with the Philippine officials to provide scientific data and analysis to support a risk assessment on the handling practices of fresh meat in the Philippines, and requested that AO 22 be suspended until the replacement measures were amended to include food safety requirements for fresh meat comparable to those established for frozen chilled meat. The European Union noted that no supporting risk assessment had been provided by the Philippines, and since the measure had not been notified to the WTO there was no opportunity for comments from trading partners to be taken into account.

76. The Philippines responded that AO 22 was a post-border measure on the handling of frozen and chilled meat and meat products that aimed at improving the country's meat hygiene and safety system up to the point of retail sale. AO 22 did not impose additional requirements and did not modify the provisions related to pre-border measures for the export of meat and meat products to the Philippines. The basis for this measure was the USDA code for frozen meat, which required that thawing be done under chilled conditions and a cold chain be maintained until consumption. This was recommended also by the Codex Code of Practice for the Processing and Handling of Quick Frozen Foods (CAC/RCP 8-1976) and the US Food and Drug Administration (FDA). AO 22 was not discriminatory as it applied to both imported and locally produced meat, but not to freshly slaughtered meat, which was a different product. There were no Codex standards for warm meat products. The Philippines noted the constructive discussion they recently had with the United States and looked forward to resolve this issue quickly.

(xi) US Import Restrictions on Plants and Plant Products - Concerns of the European Union (No. 102)

77. The European Union stated that it first raised this issue in July 2001 focussing on import restrictions on potted plants. Specific bilateral efforts had been on-going at technical level since 2008, however, the issue remained unresolved. US procedures to set import requirements for plants, fruits and vegetables were organized in three principle phases, and each of these steps was time consuming. The European Union made every effort to ensure that EU applications were well-prepared and in

conformity with all requirements, and expected the United States to deal with all EU applications rapidly.

78. The United States replied that the USDA Animal Plant Health Inspection Service (APHIS) had provided detailed responses to the multiple requests for market access from various EU member States. Progress had been made on several of these issues. In November 2010, the US market was opened to wall rocket from the United Kingdom, which had been identified as a top priority by the European Union. APHIS was close to publishing a final rule that would address the issue of bromeliads, which was the EU priority for plants in growing media. APHIS was also working to develop a joint protocol for the export of apples and pears from several EU member States, and continued to work on numerous other market access requests identified as EU priorities. In addition, APHIS had made considerable progress on other requests, for instance on apricots and avocados from Spain. The US approach of requesting additional information or clarification on a particular point often helped avoid delays and resulted in fewer denials.

(xii) Indonesia's Restrictions on Poultry Meat - Concerns of Brazil (No. 286)

79. Brazil observed that it fulfilled all OIE requirements related to poultry meat and exported poultry products to more than 170 countries, but the Indonesian market remained closed. In October 2009, Brazil had questioned the scientific basis of Indonesia's prohibition, but despite several bilateral meetings, the Indonesian market remained closed to Brazilian chicken, duck and turkey meat. Regarding chicken meat, Indonesia had recently issued Decree 50/Permentan/OT.140/9/2011, which prohibited, without any scientific justification, imports of whole chicken and mechanically separated chicken meat products. In relation to duck and turkey meat, although Indonesia had agreed to send a mission to Brazil to approve establishments, it had not responded to repeated requests from Brazil to set a date for the mission.

80. Indonesia replied that the issue had been discussed extensively during the meeting of the bilateral Agriculture Working Group, and during the Brazil-Indonesia Joint Commission in October 2011. During the consultations, Indonesia had informed Brazil that it needed more time to ensure internal coordination before sending the inspection mission to Brazil, and that the Indonesian Ministry of Agriculture would conduct its technical research in 2012.

(xiii) India's Restrictions due to Avian Influenza - Concerns of the European Union and United States (No. 185)

81. The United States recalled that it had raised this concern on numerous occasions, as bilateral efforts to resolve the matter had not succeeded, and on 19 July 2011, India had published an extension of the restrictions. The United States did not consider that the restrictions were justified by the risk assessment provided by India, and had requested the removal of the restrictions or modification of the risk assessment by 19 August 2011, but no response had been received. The United States and European Union had thus jointly requested the OIE to provide an expert opinion of the risk assessment document provided by India. The OIE had provided a copy of its expert opinion to India, the European Commission and the United States on 4 October 2011, and the United States requested that the OIE be given the floor to summarize its findings.

82. The European Union also indicated that, as it had already stated earlier, the risk analysis provided by India was not complete and did not evaluate the likelihood of entry, establishment or spread of the disease, and the associated potential biological and economic consequences, nor had the document led to any changes to the OIE standards. The European Union urged India to bring its import requirements fully into line with the relevant international standards, including through the recognition of regionalization.

83. After offering the floor to other Members, the Chairman gave the floor to the OIE. However, India requested, as a point of order, clarification of the procedures regarding participation of observer organizations in the discussion of specific trade concerns. The Secretariat noted that according to the rules of procedure of the Committee, observers could be given the floor under any agenda item, and that it was the practice in the Committee to give international organizations the floor regarding specific trade concerns that related to international standards.

84. The OIE indicated that, at the request of the European Union and the United States, it had asked two experts to review India's risk assessment. The experts had concluded that the scope and purpose of the risk assessment was not clearly defined, and that the assessment was poorly supported by references to the relevant scientific literature. The experts had concluded that the document did not meet the definition of an import risk analysis as set out in Chapter 2.1 of the OIE Terrestrial Animal Health Code.

85. India clarified that it had not formally provided any scientific risk assessment to the OIE. In October 2010, India had provided a summary report on an informal basis to the European Union and the United States. India clarified that the document had also been provided to the OIE on an informal basis, and that it was a summary document, not a full risk assessment. India considered that it was inappropriate for the OIE to comment on an incomplete document and also questioned whether the OIE had a mandate to validate a risk analysis of a Member. Furthermore, in a letter dated September 2011, India had requested the OIE to review its guidelines in order to prevent the spread of important diseases to developing countries that did not have the resources to contain and control such diseases. India has also detailed the justifications for its restrictions varying from the OIE guidelines in that letter, and was awaiting a reply from the OIE.

86. The United States observed that the OIE's comments confirmed that India's measures were not in accordance with the international standards, nor were they supported by a risk assessment. If this was not a final risk assessment, India should immediately remove the trade restrictions that had been maintained for nearly five years without sufficient scientific support.

87. The OIE indicated that at the SPS Committee meeting in October 2010, they had received from India a copy of the same risk analysis document which they had been requested to review by the European Union and the United States.

88. Chile, Argentina and Peru noted that the expert opinion provided by the OIE was different than information provided in the past regarding how particular measures compared with the relevant international standards, and suggested that the Committee should in future consider whether it was the appropriate role of the international standard-setting bodies to validate the risk analysis relied upon by a Member.

89. The European Union recalled that it had previously questioned whether India's measures were based on a valid risk assessment, and stressed that the key question now was whether India would continue to maintain these measures, or bring them into line with the OIE standards.

90. As a subsequent point of order, India questioned whether the OIE should have been permitted to take the floor on this issue as per the procedures and provisions of the Committee and Agreement. Under Annex 3 of WT/L/161, the purpose of granting observer status was to enable an organization to follow discussions on matters of direct interest to them. The agreement between the WTO and the OIE (WT/L/272) also indicated that the OIE would be invited to participate in deliberations on agenda items on which the OIE had an interest. The OIE was a highly reputed organization recognized for its standard-setting for animal health and zoonosis, however India did not consider that it was appropriate for an observer to judge a Member’s rights and obligations. India considered that other Members had the right to comment on each other's measures and policies, but that this right was not extended to

observers and that allowing observers to express judgements on Members' policies had serious systematic consequences. Under Article 13 of the SPS Agreement, a Member was fully responsible for the observation of all of the obligations set out therein, and in India's view the OIE could not be considered to have an interest in how India was carrying out its risk assessment. India thus requested that the intervention of the OIE not be reflected in the report of the Committee meeting.

91. The United States recalled that on numerous occasions since this issue had been raised the OIE had provided clarification when a Member has claimed that its measure was consistent with the international standards for avian influenza. India had indicated for many years that its measure was justified by a risk assessment, which was finally provided in October 2010. It was only in June 2011 that India indicated that this was a draft risk assessment, and at that time India had invited comments on its document. It was in this light that the United States and European Union had requested the OIE to review the document, and the assessment of the OIE should be reflected in the report of the meeting. The United States welcomed the suggestion that the Committee consider the issue of the role of observers, and in particular of the Three Sister organizations, in the work of the Committee.

92. The European Union indicated that it understood the concern that the international organizations should not interpret the rights and obligations of Members under the SPS Agreement. These three organizations had a specific role to play in the Committee as the developers of the reference standards, hence the current practice in the Committee to rely on the advice and information provided by these organizations with regard to their standards and guidelines. The question that had been posed to the OIE in this case was whether the import risk assessment conformed to the OIE guidelines for such an assessment. The European Union did not understand the statement from the OIE to be an interpretation of the rights and obligations of any Member under the SPS Agreement.

93. The Chairman recalled that Rule 36 of the Rules of Procedure of the SPS Committee (G/L/170) indicated that a summary report of each meeting would be prepared by the Secretariat. As there was no consensus in the Committee to not include the statement of the OIE as requested by India, the Chairman ruled that the summary report should clearly reflect the debate on this matter. In accordance with Rule 36, any delegation could request, within 10 days of the close of the meeting, the opportunity to verify those portions of the draft report containing their statements prior to the issuance of the summary report.

(xiii) South Africa's Import Restrictions on Fresh Pork Meat - Concerns of Brazil (No. 287)

94. Brazil expressed concerns that since 2005, South Africa had suspended imports of beef and pork meat from Brazil due to a foot-and-mouth disease outbreak in the country. Numerous attempts to reopen the South African market to Brazilian pork had been blocked by repeated unnecessary requests for additional information. Brazil had also sent at least four missions to South Africa and had invited South Africa to hold bilateral meetings on the margins of SPS Committee meetings. Since 2006, Brazil had provided information on the country's sanitary status and responded to all questions from South Africa. In February 2010, intense negotiations had finally resulted in the authorization of exports of Brazilian bovine meat to South Africa, but not Brazilian pork meat. Although bovine and swine herds could be affected by FMD, the 2005 outbreak had affected only the bovine herd, and South Africa's delay in accepting Brazilian pork meat could not be scientifically justified. Brazil requested that South Africa make a final, scientifically sound decision and promptly allow the importation of Brazilian pork meat.

95. South Africa affirmed that it was committed to resolve the problem soon, as demonstrated by the technical cooperation between the South African and Brazilian officials. South Africa had experienced several devastating outbreaks of diseases in the pig population, including classical swine fever and porcine reproductive and respiratory syndrome (PRSS), which had adversely affected South African pig production and cost close to a million dollars to eradicate. FMD was not the only disease

of concern when importing pork meat. Although South Africa generally applied the concept of safe commodities as determined by the OIE, the OIE guidelines did not address all of the diseases of concern. South Africa continued to seek advice from the OIE on how to proceed regarding certain imports, considering the health status of its pig population. In particular, the OIE did not have guidelines for the importation of meat that differentiated between pathogenic and apathogenic diseases. South Africa ultimately aimed to develop a health certificate for the importation of pork which would ensure protection of its swine population.

(xiv) US failure to recognize South Patagonia as a disease-free region and the reopening of the market for fresh beef from the rest of the country - Concerns of Argentina (No. 318)

96. Argentina recalled that the United States had indicated at the previous meeting that the information provided by Argentina on ruminant and ruminant products from the region of Patagonia was useful to prepare a report to Congress as required by US Law, in particular the Agriculture and Rural Development, Food and Drug Administration Appropriations Act of 2009, Section 737. The United States had also indicated that the Animal and Plant Health Inspection Service (APHIS) had completed the risk analysis for the rest of Argentina and had drafted proposed regulations to allow for the importation of meat products. However, in spite of this, trade had not resumed and imports from Argentina continued to be restricted without any scientific basis. Argentina requested the United States to complete its risk analysis and allow access to the US market for meat products.

97. The United States stated that it was working closely with the Argentine authorities and APHIS had made significant progress in recognizing the FMD free status of South Patagonia. The information provided by Argentina had been used to complete and update the risk analysis and to prepare the report to Congress in accordance with the Appropriations Act. APHIS had completed the assessment and was drafting a proposal to allow the importation of beef under certain conditions. When the assessment and rules were completed in the near future, the United States would be able to provide market access for Argentine beef.

(xv) Import restrictions due to BSE - Concerns of the European Union (No. 193)

98. The European Union recalled that it had repeatedly raised concerns that several Members continued to impose bans or restrictive conditions on products from EU member States allegedly because of BSE, but without respecting the international standards as required by the SPS Agreement. The OIE standard on BSE was very well developed and provided details regarding the disease and conditions for the safe trade of bovine products. This meant that there was no need for additional risk assessments or for any trade restrictions at all on the well-defined safe products, such as deboned meat, regardless of the BSE risk status of the country. Despite having raised this same concern for a long time, no one had ever provided a scientific risk assessment that would justify any deviation from the international standard. In this regard, the European Union urged, in particular, China, Japan and South Korea to bring their requirements into line with the international standard and the SPS Agreement. The European Union welcomed recent developments in Australia and urged Australia to finalize this process quickly. The United States was also moving towards the adoption of comprehensive BSE rules and the European Union expected to see this process rapidly lead to US requirements fully in line with the OIE standard and a tangible outcome for trade. The European Union urged all Members to fully align their BSE-related requirements with the OIE standards and thus establish fair, non-discriminatory, transparent and scientifically justified requirements.

99. Japan and Korea both expressed their understanding of the EU concern and indicated that they would continue discussions on this issue in bilateral meetings. China indicated that it sought further information from the European Union in order to finish its risk analysis. There was a successful dialogue between both Members, and China called on the European Union to provide further information and maintain its close relationship with the Chinese scientific panel.

(c) Consideration of Specific Notifications Received

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

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

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

V. OPERATION OF TRANSPARENCY PROVISIONS

102. The Secretariat reported that documents G/SPS/GEN/1108, G/SPS/GEN/1109, and G/SPS/GEN/1111 summarized the notifications received since the last Committee meeting for the months of June, July, and August 2011, respectively.

103. The Secretariat noted as the paper versions of the lists of National Notification Authorities and National Enquiry Points could not be kept up to date, these would no longer be circulated as documents. However, the electronic versions of the lists were constantly updated and available through the SPS Information Management System (IMS) (http://spsims.wto.org) . The Secretariat asked Members to ensure the accuracy of the list of Enquiry Points and National Notification Authorities, to ensure that these would receive important documents and invitations to training activities.

104. The Secretariat reminded Members of the new system for submission of SPS notifications online. Notification Authorities were invited to request a password to access the system and submit notifications directly on line. The system worked very quickly and Members who often submitted many notifications were particularly encouraged to use it. About 25 Members had already requested a password and 11 Members had actually begun to submit their notifications electronically.

105. The Secretariat also introduced the transparency overview document (G/SPS/GEN/804/Rev.4), which was based largely on the SPS IMS. The revised transparency procedures adopted in 2008 included revised notification formats which aimed to facilitate the provision of more specific information regarding new or modified SPS measures, for instance, new fields on the conformity of the notified measure with international standards or the proposed date of publication of a measure. As of 30 September 2011, only 13 Members had not yet identified their Notification Authority, and 67 per cent of Members had submitted at least one notification to the WTO. Since 1 January 1995, 13,349 notifications were submitted to the WTO and there was an annual upward trend with 1,436 notifications in 2010. During the period from 1 December 2008 to 30 September 2011, 41 per cent of regular notifications indicated the existence of a relevant international standard and 27 per cent of these indicated that the proposed measure conformed to that standard. For the same period, 84 per cent of emergency notifications identified a relevant international standard and 59 per cent of these indicated conformity with that standard. Of the notifications issued from 1 July 2010 through 30 September 2011, 36 per cent did not provide a comment period. The average length of comment periods provided was 54 days.

106. Chile noted that, in contrast to TBT notifications, few translations of draft SPS regulations had been notified, including a recent translation by Chile of a measure notified by China. It was also notable that some Members notified more emergency measures than regular measures. For the 60 per cent of regular notifications that did not indicate a relevant international standard, it was not clear whether a standard did not exist or whether the Member had failed to accurately complete this part of the notification. Nepal noted the advantage of the NSS and requested that a training session on the SPS NSS be provided for all WTO Members. Ecuador appealed to Members to provide information on HS codes of the products covered in notifications, as this information was important for countries that were setting up electronic systems.

VI. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

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

108. The Secretariat noted that a report would be submitted to the Committee on Trade and Development describing the SPS Committee's consideration of this issue during the past two years, including Cuba's intervention regarding the transfer of technology.

VII. EQUIVALENCE – ARTICLE 4

(a) Information from Members on their Experiences

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

(b) Information from Relevant Observer Organizations

110. Codex provided information regarding the development of guidelines for the judgement of equivalence of food control systems by the Committee on Food Import and Export Inspection and Certification Systems (CCFICS). It was proposed that the principle of recognition that other systems could be capable of meeting the same food safety objectives be included in the general guidelines for food control systems. This could be applied at the national and international levels. The draft would be submitted to the Codex Commission in 2012. Codex guidelines already existed for the development of equivalence agreements regarding import and export certification and inspection systems and for the judgment of equivalence of sanitary measures.

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

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

(i) European Union - Foot and Mouth Disease in Bulgaria

111. The European Union stated that a total of 11 outbreaks had been reported in Bulgaria between 5 January and 7 April 2011. Stamping out measures had been imposed rather than emergency vaccination. High risk and low risk areas had been defined in the country and the movement of animal and products between those areas and the rest of the country had been regulated until 30 September, which was six months after the last outbreak. This was complemented by a control and surveillance plan for wildlife in southeast Bulgaria, which would implemented at least until mid-April 2012. A plan, co-funded by the European Union, included the reinforced control on the movement of domestic animals and surveillance of livestock and wildlife to ensure that the area along the border with Turkey was free of disease. Bulgaria was preparing a final report on the outbreak which could serve as the basis for the application to the OIE of re-instatement of its previous disease-free status. The European Union continued to follow this matter closely to guarantee the highest possible health protection inside and outside the European Union.

(ii) South Africa - Foot and Mouth Disease (FMD) Status

112. South Africa reported on an outbreak of FMD that had occurred in February 2011 in the northern part of Kwazulu Natal Province, bordering Mozambique and Swaziland. Measures implemented to eradicate and prevent the disease from spreading to neighbouring countries included the vaccination of 93,000 cattle twice; tracing and destroying animals that left the region before the investigation began; imposing a ban on sales; notifying the OIE on 25 February 2011 and informing trading partners. The outbreak had been controlled and no new cases had been found. South Africa was now applying for OIE official recognition of the zone as FMD-free without vaccination, and

trading partners were requested to apply the safe commodities approach in accordance with the OIE guidelines for importation of products from South Africa.

(iii) South Africa - Avian Influenza Situation

113. South Africa indicated that an outbreak of highly pathogenic avian influenza in ostriches was detected in March 2011, and the pathogenicity of the virus (H5N2) was confirmed on 16 March 2011. The outbreak was accordingly reported to OIE and trading partners. Temporary measures had been introduced immediately to control exports of all poultry and products thereof. The outbreak was limited to the Western Cape Province and the area was subsequently declared an AI control area. Surveillance had shown that the other eight provinces of South Africa were negative for the disease. South Africa was in the process of regionalizing the infected area to conform with the OIE guidelines. The outbreak was limited to ostriches, therefore exportation of other poultry could continue from bio-secured compartments.

(iv) Jamaica - Citrus Greening Disease

114. Jamaica reported that in September 2009 its Plant Health Committee had received confirmation of the presence of *Liberibacter asiaticus* that causes citrus greening Huanglongbing (HLB), a disease which affects citrus trees and is also known as Yellow Dragon disease. A survey showed that the HLB and its vector, the citrus *psyllid, Diaphorina citri*, were present throughout the island. Starting in November 2010, the FAO had provided technical assistance to facilitate the production of clean nursery stock; public awareness programmes; technical consultancies; production of pathogen free material; and improved capacity for the diagnostic testing for HLB. To restrict the spread of HLB, the Plant Quarantine Branch had issued an order making HLB a notifiable plant pest. A Citrus Nursery Order was also being prepared. An island-wide survey was underway to determine the incidence of the disease in commercial groves. The Ministry of Agriculture and Fisheries had initiated a biological control programme in commercial and residential plots (G/SPS/GEN/1118).

(v) Mexico - Venezuelan Equine Encephalitis Status

115. Mexico indicated that following two outbreaks of Venezuelan equine encephalitis (VEE) in July and September 2011 in the states of Tabasco and Veracruz, the National Health, Food Safety and Food Quality Service (SENASICA) conducted an epidemiological analysis. The investigations showed no epidemiological link between these cases and no more cases were identified. Mexico has been free of epizootic VEE strains since 1972 and maintains surveillance of the populations at risk. The enzootic virus in the recent outbreaks was of a very low pathogenicity, and had no demonstrated ability to spread within the horse population. Mexico's vector control programme ensured early detection of any risks to production or to public health, and this was strengthened during the rainy season to mitigate any risk of VEE. Other Members should continue to recognize Mexico as free of epizootic VEE, or acknowledge closure of the recent VEE cases as notified to the OIE on 29 August and 13 September 2011, or accept the regionalization of the outbreaks and recognize the State of Jalisco as free of this disease (G/SPS/GEN/1124).

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

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

(c) Information from Relevant Observer Organizations

117. The IPPC recalled that its members were obliged to submit pest reports in accordance with the IPPC standards, particularly ISPM 17, but reporting was often insufficient. Some Members provided information regarding pests at the SPS Committee meetings or through SPS notifications, but these were not sufficient to meet the obligations under the IPPC. He encouraged Members to complete the forms in the IPPC database, through which Members could exchange information on the establishment and recognition of pest-free areas.

IX. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from the Secretariat

(i) WTO SPS Activities

118. The Secretariat reported that since the last Committee meeting, seminars had been held in Chinese Taipei, Nicaragua, Panama and Senegal, and a regional SPS workshop for the Caribbean was organized in collaboration with the Inter-American Development Bank in Barbados on 26-29 July 2012. More general training on the SPS Agreement had been provided to participants in the Introductory Course for LDCs (Geneva), the Advanced Trade Policy Course in Spanish (Geneva), and the Regional Trade Policy Course for the Asia-Pacific Region (India).

119. Upcoming SPS training activities by the WTO Secretariat included three regional SPS workshops: for French-speaking African countries in Mali (15-18 November); English-speaking African countries in Kenya (22-25 November), and for Arab and Middle East countries in Qatar (27-30 November). A national SPS workshop was being held in Namibia during the SPS Committee meeting, and other national workshops were scheduled for Samoa (1-3 November), Uganda (15-17 November), Gabon and Morocco. A national SPS/TBT workshop had been requested by the Maldives.

120. The Secretariat highlighted the Advanced SPS Course, which was held 10-28 October, for 24 participants selected from LDCs and developing countries. This training activity provided a unique opportunity for transmitting knowledge and identifying actions for implementing the SPS Agreement at national level. The Secretariat appreciated the participation in the training course of delegates, Codex, IPPC and OIE, the Advisory Centre on WTO Law, and external consultants as coaches.

121. The Secretariat noted that the e-leaning course on SPS was available all year long in the three WTO official languages, and further information on SPS-related technical assistance provided by WTO could be obtained from document G/SPS/GEN/997/Rev.1 and the WTO website. Information on activities planned in 2012 would be available in G/SPS/GEN/997/Rev.2 early in 2012.

122. Chinese Taipei expressed appreciation for the SPS workshop held in September, noting that the 58 participants had found the training event to be very useful. Belize and Togo expressed appreciation for the opportunity to participate in the Advanced Training Course on SPS, noting that the course helped improve the implementation of the SPS Agreement and coordination at the national and regional levels. Togo requested the Secretariat to organize an advanced training course for French-speaking countries.

123. The Secretariat indicated that funding for most WTO training events came from the Global Trust Fund, and that Members' contributions to the Global Trust Fund had significantly dropped in 2011 and commitments for 2012 were even lower. If delegates believed that SPS-related training was important, they should make this known to their authorities responsible for budget matters, as without sufficient funds the Secretariat could not offer such training. The WTO's SPS-related training was

demand driven, and the decision to deliver the advanced SPS course in English instead of French reflected this. In order to ensure that appropriate officials were aware of the WTO training events, it was imperative that Members keep their NNA and ENQ contact information up to date.

(ii) Standards and Trade Development Facility (STDF)

124. The STDF Secretariat reported that a new medium term strategy (2012-2016) for the STDF was being developed, along with a plan of activities for 2012 and simplified operational rules, for endorsement by the STDF Policy Committee meeting on 9 December (G/SPS/GEN/1114). More information on the new strategy of the STDF, its mission statement and plan for 2012 would be provided at the SPS Committee meeting in March.

125. The STDF Secretariat recalled the workshop held in October 2009 on the use of economic analysis to inform SPS decision making. Work had been undertaken this year in Africa on the use of a Multi Criteria Decision Analysis (MCDA) tool, with the objective of facilitating dialogue among SPS stakeholders about prioritizing SPS capacity building. The tool helped ensure a transparent and more inclusive needs assessment, identifying decision criteria, including costs and benefits. The first applications had taken place in Mozambique (April) and Zambia (July), followed by a regional workshop in South Africa (August). Participants had been trained on how to use the MCDA methodology. One advantage of the tool was to indicate the reliability of the data used, and the method could be re-applied when more data was available. The STDF planned to provide training on the MCDA in Asia and/or the Americas during 2012, and sought expressions of interest from those regions.

126. The STDF was planning a seminar in international trade and invasive alien species, to be held on the margin of the SPS Committee in July 2012. The STDF would fund the participation of some experts from developing countries. The seminar would be open to the public. The STDF publication on SPS-related capacity evaluation tools had recently been revised. A joint STDF-World Bank publication on climate change and trade, based on the seminar on this topic in 2009, addressed SPS issues. STDF was finalizing the study on national SPS coordination mechanisms in Africa, whose recommendations had been presented a few days earlier at the workshop. A publication on Public-Private Partnerships in SPS capacity building would soon be finalized in collaboration with the Inter-American Development Bank. The STDF film, "Trading Safely", was now available also in Arabic, Chinese and Russian. The STDF newsletter was issued three times per year and Members were invited to complete the survey on this newsletter. The next deadline for submission of applications for STDF funding was 2 January 2012. The eligibility criteria for STDF funding were available on the STDF website, along with guidelines for applicants. Under the current procedure, an application was reviewed: (i) by the secretariat; (ii) by STDF working group members including partners and donors; and (iii) by the STDF Working Group for final decisions.

127. Nepal thanked the STDF for approving a project to strengthen ginger production and hoped that the EIF would support the hardware needed for the project.

(b) Information from Members

128. The United States stated that it would continue to support and participate in SPS-related technical assistance to developing countries. US capacity building efforts had helped numerous developing and WTO-acceding countries enhance their SPS regulatory regimes. In 2010, and leading out to 2012, the US Government had provided or committed funding for SPS trade capacity building (TCB) efforts in excess of US$10.4 million. The SPS TCB effort of the United States was part of a US$300 million plus capacity building undertaking including the Food for Progress programme and other assistance programmes. US Government assistance took many forms, including training seminars, staff assistance, and data sharing (G/SPS/GEN/181/Add.9/Rev.1).

129. Paraguay appreciated the US seminar on the new Food Safety Modernization Act and suggested further regional workshops to explain the procedures and implementation of this law. Senegal was grateful for the US support that permitted the National Codex Committee to participate in Codex meetings the last two years, and hoped this support would be extended to participation in the SPS Committee.

130. Argentina thanked the WTO Secretariat for supporting a new graduate programme in international agricultural trade and negotiations organized by Buenos Aires University in collaboration with the Ministry of Agriculture, Fishery and Livestock Department. The first seminar was held from 30 May to 3 June 2011 with support from the World Trade Institute of the University of Bern, IICA and the Inter-American Development Bank.

(c) Information from Observers

131. Codex reported on regional workshops to improve participation in Codex, the use of Codex standards, the organization of National Codex Contact Points, issues of food safety and the application of risk analysis. In September, a workshop had been held in Albania for South-Eastern European countries, and a similar activity had been held in cooperation with the African Community in Kenya. Another workshop was planned for the Near East in December 2011. These activities were partly funded from the Codex Trust Fund and organized by WHO and FAO Regional Offices.

132. IPPC observed that standards could not achieve their objective unless countries had the capacity to ensure their implementation. In the past few years, the IPPC Secretariat had developed a strategic plan on capacity development and a budget would be submitted to the Commission meeting in March 2012. An oversight body for capacity development was proposed to look at issues with respect to the implementation of ISPMs. IPPC was aware that much information was already available and requested Members to share any operational or procedural manuals, training kits or videos or other tools that could help support the implementation of ISPMs. STDF had funded the development of an e-learning programme on pest risk analysis that was available from the IPPC website. IPPC received frequent requests for the application of the PCE national self-evaluation tool. With the support from donors, IPPC had organized seven regional workshops on drafting standards and planned to deliver seven others in 2012.

133. As part of the global initiative to strengthen veterinary and aquatic animal health services of its members, OIE continued to publish standards and recommendations on good governance. Many developing countries needed to modernize their veterinary legislation, a critical part of infrastructure, and the Terrestrial Code Commission would propose a new standard on veterinary legislation for adoption in 2012. Later in 2011 the OIE would publish recommendations regarding core competencies of graduate veterinarians. Following the OIE Global Conference on "Aquatic Animal Health Programmes – their benefits for global food security" in Panama on 28-30 June 2011, the OIE had received several requests for evaluations of aquatic animal health services. To date the OIE had received requests for 116 Performance of Veterinary Services (PVS) evaluations, had conducted 104 missions, 78 reports from the missions were available for restricted use by donors and partners. The focus was now on gap analysis, for which the OIE had received 68 requests and conducted 47 missions. The OIE has also undertaken veterinary legislation missions as part of the PVS pathway, and 24 missions had been conducted with 19 outstanding requests.

134. IICA reported that its support for participation in Codex meetings would end in December 2011. Financial support had been given to 16 participants for nine Codex committees, and 22 countries had benefited. The Codex Coordinating Committee for Latin America and the Caribbean would organize a meeting on inspection certificates with online participation from 12 Latin America and three Caribbean countries. IICA had also supported a regional workshop on proposed ISPMs in September, in collaboration with the IPPC Secretariat, the Southern Cone Plant Health Committee,

and OIRSA, with 25 participants from 16 countries and two Regional Plant Protection Organizations (G/SPS/GEN/1121).

135. OIRSA reported on a program for HLB, also known as citrus greening, in coordination with technical experts from Chinese Taipei, to access the situation of the disease in the region and to prepare regional controls. Panama had signed an agreement with FAO for technical services to support Central America countries and the Dominican Republic in controlling HLB. OIRSA, with SAGARPA, had organized a regional training workshop in Panama to strengthen monitoring of the tomato leaf moth (*tuta absolute meyrick),* and was consulting with the North American Plant Protection Organization (NAPPO) on strategies to prevent this pest. A study on eradicating classical swine fever was underway in Honduras, the last country in the region in which classical swine fever appears. OIRSA had collaborated to provide technical assistance to companies in Panama on pre-inspection of Good Manufacturing Practices and Sanitation Standard Operating Procedures (SSOP) and HACCP for farmed shrimp to meet US FDA requirements, and on hygiene and safety of tilapia and shrimp in accordance with EU requirements. The STDF-funded project to strengthen the national SPS committee in Honduras, and two reports and a national workshop on ISPM 15, had been completed. OIRSA had also supported participation of Central American officials to the 34th session of the Codex Commission, and participation of national plant protection organizations (NPPO) in regional workshops in Costa Rica to review draft ISPMs (G/SPS/GEN/1119).

136. ISO indicated that it had organized a four-day workshop in Indonesia in collaboration with Codex, FAO, OIE and the Global Food Safety Initiative in September 2011. The aim of the workshop was to raise awareness on fish safety. The workshop was also supported by Indonesia and the Swedish International Development Co-operation Agency, and involved three participants from each of 17 East and South East Asian countries. A similar activity was planned for African countries in Kenya in April 2012.

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

(a) Workshop on SPS Coordination at National and Regional Levels

137. The Chairman reported that the WTO Secretariat held a workshop on SPS Coordination at the National and Regional Levels on Monday, 17 October 2011. The programme was available in G/SPS/GEN/1110. The objective of the workshop was to bring together officials responsible for participation in and implementation of the SPS Agreement, Codex, IPPC and OIE for an in-depth discussion, at a technical level, on best practices in coordination at national and regional levels.

138. The first part of the workshop had included presentations by the Three Sisters that addressed (i) benefits and weaknesses of their standard setting procedures, (ii) concerns raised regarding these procedures and (iii) changes under consideration. The Secretariat had presented its background document (G/SPS/GEN/1115) that described and compared the procedures used by the Three Sisters to develop standards, as some WTO Members had suggested that effective national coordination may be hampered by assumptions that the standard-setting procedures of the Three Sisters were the same.

139. In a session on national coordination, the STDF Secretariat had presented the preliminary recommendations of the Study on National SPS Coordination Mechanisms in Africa. These recommendations were to: (1) raise SPS awareness, (2) clarify organizational matters, (3) build on existing mechanisms (4) follow "good mentoring practices", (5) establish clear and effective communication strategies, and (6) promote sustainability.

140. The Philippines and Belize had shared their experiences of coordination at the national level. Belize had provided information on its creation of a National SPS Committee, while the Philippines had shared experiences related to increasing awareness of the SPS Agreement.

141. Concerning regional coordination, a scoping study undertaken by STDF regarding African regional SPS protocols had been presented. This study flagged concerns about the ability of the Regional Economic Communities to assist Members implement the SPS Agreement. The study described inadequate and highly fragmented SPS frameworks, slow decision-making and a very limited political awareness. The African Union and COMESA had agreed with some of the study's conclusions, and noted that changes were underway.

142. MERCOSUR and COMESA had provided their experiences of coordination at the regional levels. COMESA had outlined the role of its SPS Sub Committee and how they proposed to implement a "Simplified Trading Regime". MERCOSUR had provided specific information on its regulatory framework concerning SPS matters, including harmonization and coordination within the region.

143. The problems identified by Members that arose from poor coordination at the national level were very similar, and included:

(a) Duplication of work, resulting in the waste of scarce resources;

(b) Conflicting / non-coherent positions, which led to a loss of credibility of competent authorities;

(c) Missing opportunities, including for training and capacity-building assistance; and

(d) Loss of market access.

144. Among the identified causes of poor coordination was the existence of many players involved in SPS matters, as well as limited human resources. The lack of awareness of the importance of SPS at the political level and by other stakeholders was also frequently mentioned.

145. The workshop had been a very good opportunity for Members to share their experiences on coordination at national and regional levels. Members had taken the opportunity to exchange information on the challenges faced, but also the good practices identified, in the implementation of a good coordination mechanism.

146. The workshop had resulted in a number of specific recommendations, where the responsibility of implementation remained with the Members themselves. The recommendations included:

(a) The need to identify someone as specifically responsible for national coordination;

(b) The establishment of an effective mechanism to share information;

(c) The establishment of an SPS policy at the national level;

(d) The creation of an SPS agenda for work at the national level;

(e) Continual sharing of experiences on coordination;

(f) Ensuring that all stakeholders understood the importance of SPS issues;

(g) Involvement of the private sector and academia in the coordination of SPS issues;

(h) The building of institutions, guaranteeing continuity.

147. The workshop had also resulted in two specific recommendations for consideration by the Committee:

(a) Development of guidelines on national coordination; and/or

(b) Development of a manual of good practices on coordination.

148. The Chairman concluded his oral report by indicating that a detailed report of the Workshop would be circulated by the Secretariat after the Committee meeting (G/SPS/R/65).

149. In commenting on the Chairman's report, Japan thanked the Secretariat for organizing a useful workshop which provided a good opportunity for Members to share their experiences in SPS coordination. The workshop also provided a good opportunity for each Member to further understand the standard-setting procedures of the Three Sisters, and which was necessary for the improvement of SPS coordination.

150. Morocco was pleased with the opportunity for Members to share their views on such an important issue. Effective national coordination depended on each country, and perhaps required personal initiative to establish a national coordinating committee.

151. The European Union welcomed the background document on how the Three Sisters operated, as well as the broad participation of Members in the workshop. Sharing of good practices was a positive step in determining how national and regional cooperation could be improved, especially in the face of reduced resources.

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

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

152. The Chairman reported on an informal meeting on ad hoc consultations, held on 18 October. He had recalled that at the June meeting some Members had expressed support for G/SPS/W/259 as the basis for future discussions; however other Members had indicated that the document did not reflect certain elements of their proposals.

153. To advance the work, the Chairman had invited Members to submit comments in writing on G/SPS/W/259 by 29 July 2011, and requested the Secretariat to incorporate all comments received into a new revision of the document. This revision, G/SPS/W/259/Rev.1, was the basis of the work at the informal meeting on ad hoc consultations.

154. Given the nature and number of brackets in document G/SPS/W/259/Rev.1, the Chairman had suggested at the informal meeting to proceed paragraph-by-paragraph with a goal of reaching consensus on as many points as possible. Although not easy, consensus had been reached on the majority of brackets contained in the preamble of the draft. Regarding general considerations, consensus had also been achieved in paragraphs 1 and 2. However, Members had been unable to continue with the review of the rest of the document because of lack of time.

155. In concluding the informal meeting, the Chairman had asked the Secretariat to produce a new revision of the document that reflected the outcome of the informal meeting on ad hoc consultations, up to paragraph 5. This revised version would be the basis of the work for the next informal meeting, to be held on the margins of the March 2012 meetings. The Chairman hoped that further discussions at the next meeting would be favourable in reaching consensus on the remaining brackets.

156. Brazil expressed its concern on the slow pace of progress, noting that the number of STCs raised in SPS meetings was substantial and would likely increase in the future. Brazil was interested

in being able to use agreed procedures for ad hoc consultations in order to advance some of the long-standing problems they currently faced, and urged Members to be flexible so that compromises could be reached and a mechanism agreed.

(c) Issues Arising from the Third Review (G/SPS/GEN/1086)

(i) Report on the Informal Meeting

157. The Chairman reported on the informal meeting of 18 October, which discussed ways of advancing work on issues arising from the Third Review. He had recalled that at the March 2010 meeting, the Committee had adopted the report of the Third Review, contained in G/SPS/53. The report identified several issues where the Committee had agreed to further work.

158. At the October 2010 informal meeting, Members had agreed to prioritize three issues for consideration of further work: (i) 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).

159. On cooperation between the SPS Committee and the Three Sisters, two items were discussed. The first was the workshop on national and regional coordination, which had been held on 17 October. The second was the joint Canada-Japan proposal (G/SPS/W/258) for a formal decision by the SPS Committee to implement Recommendation 3 of the October 2009 workshop by encouraging the Three Sisters to undertake joint work on cross-cutting issues.

160. The Secretariat had given a brief report on the coordination workshop, and highlighted two specific recommendations resulting from it, namely a possibility to develop guidelines for good national coordination and/or a manual of good practices. Japan and some other Members had expressed appreciation for the workshop, and noted that it had provided a good opportunity to share experiences in SPS coordination and to learn about the Three Sisters' standard-setting procedures.

161. Canada had noted that under the Third Review, it was agreed that the Committee should follow up on the recommendations resulting from the October 2009 workshop. Canada had recalled that it and Japan had submitted a joint proposal to encourage the Three Sisters to undertake joint work on cross-cutting issues, in an attempt to action Recommendation 3 of that workshop for a formal decision (G/SPS/W/258) by the Committee.

162. The IPPC had noted that there was increasing cooperation between the Three Sisters and that it had taken due note of the proposed decision, but also cautioned that the Three Sisters were distinct organizations with different governing bodies and procedures, and that therefore, cooperation in some fields could be more challenging than in others.

163. Several Members had supported formal adoption of the draft decision proposed by Canada and Japan, and it was agreed that it would be considered for adoption at the formal meeting of the SPS Committee. Argentina, Chile and Egypt had also flagged that the Committee should consider specifying in the future the particular cross-cutting areas in which it would wish to see deeper cooperation between the Three Sisters.

164. In relation to improving the procedure to monitor the use of international standards, Argentina, Canada, Japan and New Zealand had provided submissions. Several Members had noted that the current procedure to monitor the process of international harmonization did not capture all situations that involved international standards, and had emphasised the need to correctly reflect the use of international standards in annual monitoring. New Zealand had suggested in this regard that when raising specific trade concerns, Members should identify any relevant standard that may be applicable in the situation. In Japan's view, it would be constructive to collect, as a first step, information on why Members were underutilizing the existing system. Argentina and Chile had reiterated their call to review the current procedure to monitor the process of international harmonization, contained in G/SPS/11/Rev.1, in order to ensure monitoring is up-to-date and effective.

165. The IPPC had presented an on-going project to systematically look at the implementation of IPPC standards, and had indicated that it could perhaps inform the Committee about this work at the March meeting. Codex had explained how its regional committees monitored the national application of Codex standards. Chile had suggested that it would be useful for Members and the Sister organizations to work together to find effective ways to monitor the use of international standards.

166. The Chairman had concluded the discussion on this point by inviting Members to submit, prior to the next informal meeting, any specific submissions regarding the underutilization of the current monitoring procedure or proposals for its revision.

167. Under the third prioritized issue, control, inspection and approval procedures (Article 8 and Annex C), submissions from Canada, Japan and New Zealand had been discussed. These Members had reiterated their position that before moving on to consider the most effective way to implement Article 8 and Annex C, Members should share their experiences with control, inspection and approval procedures. All three had thanked the European Union for having presented its approach to SPS audits at the June informal meeting.

168. To advance work under this point, the Chairman had encouraged Members to continue sharing their experiences with control, inspection, approval procedures.

169. The Chairman had concluded the informal meeting by inviting Members to submit, in advance of the next informal meeting, 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.

(ii) Proposal by Canada and Japan

170. The Committee formally agreed to the proposal by Canada and Japan on joint work by the standards-setting bodies (G/SPS/58).

XI. MONITORING THE USE OF INTERNATIONAL STANDARDS

(a) New Issues

171. No Member raised any issue under this agenda item.

(b) Issues Previously Raised

172. The IPPC noted that, thanks to generous support from the European Union, it had put in place an Implementation Review and Support System (IRSS), which would follow a three-year cycle. The IRSS addresses the use and implementation of standards. A questionnaire would be sent to Members

to collect information on the implementation of the IPPC and ISPMs. In addition, the implementation of ISPM No. 6 was being assessed, and a preliminary report would be available in March 2012. The IPPC was also developing a Help Desk facility whereby Members could contact the IPPC for assistance with the use and implementation of international standards, and which would contain, *inter alia*, databases, rosters of experts, lists of donors, and criteria for funding.

173. Chile thanked the IPPC for their assistance in helping Members to make the best use of international standards, and urged Members to correctly complete SPS notification forms rather than indicate that no relevant standards existed.

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

(a) Report on the Informal Meeting

174. The Chairman provided an oral report of the informal meeting on the implementation of the agreed actions with respect to SPS-related private standards and other identified actions, held on 18 October 2011. The Chairman had recalled that at the June meeting of the Committee, he had invited Members to (i) submit specific proposals on how to implement the five agreed actions; (ii) discuss among themselves proposed changes to the title of Action 6 before the October meeting to try and resolve differences; and (iii) submit suggestions of how to move forward on Actions 7 to 12. Comments had been received from nine Members by the 29 July deadline: Australia, Brazil, Canada, the European Union, Indonesia, Japan, New Zealand, Peru and the United States.

175. The Chairman had invited the Committee to first discuss the five agreed actions and asked for concrete suggestions on how to implement these actions.

176. Regarding Action 1, some Members had stressed the need to first agree on a working definition of SPS-related private standards, as a basis for the work on the remaining agreed actions. Brazil and several other Members had suggested the establishment of a deadline for Members to submit proposals on a working definition of SPS-related private standards. Some Members had also noted that the Three Sisters should be involved in the work on a definition. It had been pointed out that the text of Action 1 already contained a proposed working definition of an SPS-related private standard which should serve as the basis to advance the work. However, other Members had suggested that Annex A of the SPS Agreement related to government measures and not private standards.

177. Regarding Actions 2 to 5, some Members had argued that a lack of consensus on Action 1 should not hinder progress on the implementation of Actions 2 to 5, as there was no agreement to sequence the five agreed actions. Other Members had stressed that a definition of SPS-related private standards was necessary to proceed with the implementation of the other actions, for instance to determine which issues should be reported to the SPS Committee by the Three Sisters. Some had noted that Actions 2 through 5, however, could be taken almost simultaneously once a definition was agreed.

178. Regarding Actions 2, 3 and 5, Brazil had suggested that (i) the Committee be informed of the actions taken by the Secretariat in conjunction with Codex, IPPC and OIE, as well as by other WTO fora and (ii) Codex, IPPC and OIE also include in their reports to the Committee actions taken in relation to SPS-related private standards.

179. On Action 2, Indonesia had noted that organizations or entities planning to impose private standards should communicate this in advance to the SPS Committee and consult with the Three Sisters. On Action 3, Canada had suggested that the Secretariat could circulate reports of any relevant

discussions in other WTO fora concerning private standards. On Action 4, Indonesia had proposed that a mechanism be put in place to allow governments to inform stakeholders in developing countries of SPS-related private standards.

180. Regarding Action 5, some Members had reiterated the importance of a definition of SPS-related private standards to avoid confusion in the implementation of the agreed actions. Other Members reiterated that sequencing was not necessary with regards to the agreed actions, or any other relevant actions to address SPS-related private standards.

181. The IPPC had flagged that private standards had not yet been identified in the plant health area, and that its governing body would need to agree to add the issue to its work programme. A working definition of SPS-related private standards could inform the report that the IPPC provided to the SPS Committee. Codex had also highlighted the importance of a working definition of SPS-related private standards and reported that it was undertaking discussions on private standards in the framework of Codex regional bodies. Codex welcomed continued cooperation with the SPS Committee, IPPC and the OIE on this issue.

182. Chile had suggested that it could be useful to encourage the private standard-setting bodies to participate as observers in the work of the Codex and OIE, so as to improve mutual understanding and identify ways to collaborate in the future and also benefit from a scientific and transparency stand point. Finally the Committee and the Three Sisters would benefit with regards to the implementation of international standards.

183. Due to lack of time, Actions 6 to 12 had only been briefly discussed. Argentina, Brazil and Uruguay had requested that these actions be on the agenda of the next informal meeting on private standards. Other Members had noted that there had been no consensus on proposed possible Actions 6 to 12 and insisted on the need to first concentrate on making progress on agreed Actions 1 to 5.

184. With a view to the Committee quickly agreeing on a working definition, the Chairman had invited Members to submit specific proposals on a working definition of SPS-related private standards by 13 January 2012. It had been noted that proposals received by the deadline would only be circulated electronically by the Secretariat.

185. Members were also invited to (i) comment on the proposed definitions received; and (ii) submit proposals on the implementation of Actions 2 to 5, by 10 February 2012.

186. In commenting on the Chairman's oral report of the informal meeting, Belize noted that it was disappointed that at the informal meeting some Members had sought to impose a chronological order for the implementation of the recommended actions, as this had never been agreed. Chile welcomed Members' indication of interest in progressing on the definition of SPS-related private standards, and encouraged simultaneous progress on the other recommendations so these could be implemented as soon as a working definition had been agreed. Chile also suggested that Members should encourage the Three Sisters to work together with the Committee to move forward on this issue because such an approach would enhance scientific content and transparency, and benefit the Three Sisters in terms of better application of these standards.

XIII. REQUESTS FOR OBSERVER STATUS

187. The Chairman recalled that at the last meeting it had been suggested that the criteria for observer status should be reviewed, and it had also been suggested to categorize the organizations now requesting observer status in the SPS Committee. The Secretariat had prepared a background document to assist the Committee in this regard. The Secretariat noted that G/SPS/GEN/1112

described the working procedures of the SPS Committee regarding the granting of observer status, and categorized the organizations which currently had observer status in the Committee. The Secretariat indicated that it would remind observer organizations that according to the existing criteria, an observer organization would lose its status if it did not participate in a meeting of the Committee within a year's period of time.

(a) Ad hoc Observers

188. The Committee agreed to invite all of the ad hoc observers to participate in the next Committee meetings, both formal and informal.

(b) New Requests and Outstanding Requests

189. The Chairman noted that there were two new requests for observer status; one from the International Cocoa Organization (ICO) and another one from the African Union (AU), and that the background documents prepared by the Secretariat were G/SPS/GEN/121/Add.13 and G/SPS/GEN/121/Add.14, respectively. In considering the requests from the AU, and the outstanding requests from the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of Central African States (ECCAS), and the Intergovernmental Authority for Development (IGAD), the Committee should recall that it had already granted observer status to other African regional secretariats, including ECOWAS, CEN-SAD and WAEMU.

190. The United States suggested that there was a need to review the current procedures regarding the role of observers, and that a distinction should be made between the role of the Three Sisters and other observer organizations. Members should submit suggestions on guidelines for observer organizations for discussion in March 2012, and consider postponing approval of other applications until guidelines were agreed. Canada, the European Union and New Zealand agreed on the need to develop guidelines regarding the role of observer organizations. Ecuador, the European Union and Pakistan also agreed that the status of the Three Sisters was markedly different from that of other observers. Canada further noted that should guidelines be developed, there be a clear scope and specific limited timeframe to prevent delaying decisions on observer status requests.

191. Pakistan stressed that scientific organizations should also be considered distinctly, and supported the application of CABI because of its technical expertise and assistance in the implementation of national SPS Committees.

192. Burkina Faso highlighted the job done by the African Union in the last few years to support African countries in the context of the SPS Agreement, and as such supported the application of the AU. This appeal was supported by Benin, Central African Republic, Congo, Gabon, Madagascar, Mali, Nigeria, Senegal, South Africa, Sudan, Togo, Tunisia, Uganda, Zambia and Zimbabwe. Many of these Members indicated that they agreed on the special status of the Three Sisters compared to other observers, and the interest in developing guidelines. However, they noted that the African Union already had observer status in the Codex and the OIE, and played an important role in terms of capacity building and improving health in poor African countries. The European Union also supported granting observer status to the African Union.

193. No consensus was reached on the new or outstanding requests for observer status.

XIV. CHAIRMAN'S ANNUAL REPORT TO THE COUNCIL FOR TRADE IN GOODS

194. The Chairman noted that he would make a brief, factual annual report, under his own responsibility, on the activities of the Committee for consideration by the Council for Trade in Goods. The report would describe the main work taken during 2011, in particular the adoption of the five

actions with respect to SPS-related private standards and the workshop on SPS coordination at the national and regional levels, and provide an overview of discussions under several agenda items. A draft of the annual report had been made available to delegates at the beginning of the meeting, and Members could provide suggestions regarding the annual report until 25 October 2011. The final report was circulated as G/L/969.

XV. OTHER BUSINESS

195. Mexico again expressed concerns on China's hygienic standard for distilled spirits and integrated alcoholic beverages (STC 278), in particular the maximum established level for methanol in distilled beverages and the classification of tequila. Mexico had raised this issue in several bilateral meetings, submitted relevant scientific information to assist Chinese officials understand the unique features of tequila, and had also submitted a bibliographic analysis on the presence of methanol in distilled alcoholic beverages and its relation to consumer health. The private sector had also sent comments to the Chinese authorities. Mexico pointed out that certain alcoholic beverages with methanol levels higher than tequila, such as fruit marc spirits, were produced and sold internationally without any reported negative health effects, and that tequila's maximum methanol content of three grams per litre was inherent to the product, not related to poor quality or processing. Mexico concluded that China's proposed maximum limit on methanol could be at odds with existing scientific evidence and, as such, unjustified. China indicated that it would carefully review the information from Mexico.

196. Norway provided an update on recent developments in China's measures on salmon, in particular the new testing and quarantine measures on fresh salmon. The measures introduced in December 2010 by the implementation of AQSIQ Order Number 9 had led to a 70 per cent reduction in the volume of Norway's exports of fresh salmon to China. Norway had requested bilateral consultations between the relevant technical experts, and urged China to agree to hold this meeting before the end of 2011. China indicated that the sharing of written documents and data was as important as physical talks, but Norway had not yet provided the necessary information. However, there had been smooth discussions on this issue in AQSIQ in Beijing.

XVI. DATE AND AGENDA OF NEXT MEETING

197. The Chairman recalled that the next meeting of the Committee was tentatively scheduled for 28-29 March 2012. Informal meetings on ad hoc consultations, private standards and issues arising from the Third Review would be scheduled immediately prior to the next Committee meeting.

198. 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.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
   (b) Issues arising from the Third Review
      (i) Report on Workshop on national and regional coordination
      (ii) Report on informal meeting

10. Monitoring of the use of international standards

   (a) New issues
   (b) Issues previously raised

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

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

- Any comments on the draft Annual Report must be provided before: **Thursday, 25 October**;
- For proposed working definition on private standards: **Friday, 13 January;**
- For comments on those definitions and other comments regarding SPS-related private standards: **Friday, 10 February;**
- For the identification of new issues regarding the monitoring procedure or to request the inclusion of items on the agenda: **Thursday, 15 March;**
- For the distribution of the Airgram: **Friday, 16 March.**