



Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 22-24 MARCH 2023

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

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## 1 ADOPTION OF THE AGENDA

1.1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its 85<sup>th</sup> regular meeting on 22-24 March 2023. The proposed agenda for the meeting ([JOB/SPS/26](#)) was adopted with amendments. In light of the COVID-19 pandemic, the meeting was held in hybrid form, with some delegates attending in-person and others joining via a virtual platform.

1.2. Members were able to submit agenda items, support specific trade concerns (STCs), and upload statements through eAgenda. Members could support items through eAgenda until they were discussed in the meeting, and upload statements until Friday, 24 March 2023. Only oral interventions by Members who took the floor during the meeting were reflected in this report. In addition, longer statements could be shared through eAgenda or circulated as GEN documents. The Secretariat invited Members to inform the Secretariat of email addresses to be added or removed from the delegates' distribution list and eAgenda. The Secretariat also drew Members' attention to the briefing session for new delegates that had taken place the week prior to the Committee ([RD/SPS/225](#)), as well as to a [flyer for new delegates](#) and an introductory presentation on the Committee available in the [dedicated Committee webpage](#).

## 2 INFORMATION SHARING

### 2.1 Information from Members on relevant activities

#### 2.1.1 Japan - Update on the import measures on Japanese food regarding radionuclides ([G/SPS/GEN/1233/Rev.5](#))

2.1. Noting that the majority of Members had lifted measures imposed following the Fukushima nuclear accident, [Japan](#) called on those Members that continued to maintain measures to lift them. Japan considered such measures to be maintained without scientific evidence and to be inconsistent with the SPS Agreement. Japan reiterated that it would implement the discharge of the ALPS treated water (water treated by the Advanced Liquid Processing System) in accordance with the international practice and strictly comply with regulatory standards regarding safety, under the review of the International Atomic Energy Agency (IAEA). Therefore, the discharge of water could not justify imposing import measures on Japanese food. Japan further noted that it had provided relevant scientific updates to the IAEA, and reminded of its updates to the Committee, annual reports, one-stop website for information sharing, and bilateral consultations. Japan asked relevant Members to conduct risk assessments, and risk communication efforts with their citizens.

2.2. [Korea](#) indicated that the protection of health and safety of people was its top priority, noting the continued detection of a high level of caesium in fishery products in Japan. Korea reiterated the importance of consultations with interested parties and of providing transparent and thorough information on the potential environmental impacts of Japan's post-accident measures.

2.3. [China](#) called on Japan to fully consider the impact of discharging contaminated water on the environment and human, animal, and plant safety and health and to carefully choose a method in line with the principles of global sustainable development. China considered that Japan had not provided sufficient scientific and factual evidence to address the concerns of the international community regarding the legitimacy, data reliability, effectiveness of purification devices, and environmental impacts of its contaminated water discharge plan. China requested that Japan submit its risk assessment report regarding the discharge of contaminated water to the Committee.

2.4. [Japan](#) responded that the release of the ALPS treated water would be conducted in line with international law and practice, fully taking into account the impact on the public and the environment. Safety would be insured based on scientific evidence, and the radiological impact on the public and marine environment would be small compared to natural radiation exposure. Japan reiterated that import measures needed to be based on science, and the discharge of the ALPS water could not be a reason to maintain current restrictive measures.

2.5. In a subsequent intervention, [Korea](#) highlighted the importance of lifting food safety concerns and restoring Korean people's confidence in Japanese food products, and looked forward to a continued communication with Japan through a bilateral channel. [Japan](#) recalled that its maximum

radionuclide levels were the same as that of Korea, and assured that the health of Japanese and Korean people was a key consideration. Japan looked forward to continuing bilateral communication.

2.6. China further sought clarification about the IAEA assessment report, as China understood that the report indicated that inconsistencies remained between Japan's water discharge plan and existing standards. Japan responded that IAEA review was ongoing, and that the IAEA's comprehensive report would be published before the start of the discharge of ALPS water. Finally, Japan requested China to engage in bilateral communication.

### **2.1.2 Russian Federation - Results of the International Conference on Food Safety and AMR**

2.7. The Russian Federation provided an overview of the results of the International Conference on Food Safety and Antimicrobial Resistance (AMR) held in Moscow in December 2022. The conference was attended by leading scientists in the field of food safety and AMR from several CIS countries and experts from FAO, UN Environment Programme and WOA. The conference had highlighted food safety as one of the key characteristics of the quality of food and the need for the international community to address the challenges associated with AMR and contaminants in food. The conference had shown the importance of ensuring monitoring of antibiotics maximum residue limits (MRLs) and the need to focus on forecasting antibacterial agent resistance development. The Russian Federation informed of a next event on food safety and AMR in 2024.

### **2.1.3 United States - Voices from the Field: Digital Solutions and Innovations for Sustainable Agriculture; event organized by Argentina, Brazil, Canada, Israel, Paraguay, and the United States ([G/SPS/GEN/2092](#))**

2.8. The United States provided information on a session on Digital Solutions and Innovations for Sustainable Agriculture, organized in November 2022 by Argentina, Brazil, Canada, Israel, Paraguay, and the United States in coordination with the Digital Agriculture Association. The event had underlined technological opportunities allowing farmers to make better management decisions. Yet, farmers depended on governments for enabling regulatory environments supporting access to these new technologies. Noting that digitally enabled farming tools increasingly helped farmers improve resilience, sustainability, and profitability of their farming operations, and strengthen food systems, the United States highlighted the importance of the ongoing discussions in the thematic groups in the context of the MC12 SPS Declaration. A summary of the event and the link to the recordings were available in document [G/SPS/GEN/2092](#).

2.9. Several co-sponsors of the event took the floor, emphasizing the timeliness or relevance of the event in light of ongoing discussions in the context of the MC12 SPS Declaration thematic groups. Paraguay noted that the event had illustrated how to adapt digital and technical tools to agriculture, including precision agriculture, to provide comprehensive solutions to challenges faced by farmers. Similarly, to Canada, the event had provided important insight on the use of digital tools to address modern challenges facing farmers. Argentina added that, as the event had made clear, the private and public sector together, could generate many new tools to improve trade in agriculture products. Brazil recalled that producers had discussed digital farming tools, productivity, good agricultural practices, and science and technology. According to Brazil, it was imperative that Members understand the tools being used and how they could support farmers to increase productivity without the need for trade restrictive policies.

### **2.1.4 Ukraine - Information on SPS situation**

2.10. Ukraine provided information on the current functioning of its SPS infrastructure and other SPS aspects related to the food security situation. Ukraine informed that, in 2022, avian influenza (AI) tests had been conducted with no detection of the disease, and the number of African swine fever (ASF) outbreaks had been reduced. Ukraine further informed that rebuilding of SPS facilities in de-occupied territories was a high priority. Ukraine highlighted that the State Service on Food Safety and Consumer Protection had ensured uninterrupted and efficient implementation of official food safety control measures, referring to inspections and checks at the border. Significant efforts had also been made to prevent food poisoning and ensure proper storage and selling conditions for food products. Twenty-one of the 24 phytosanitary laboratories continued to operate, and the competent SPS authorities continued to guarantee compliance of

Ukrainian products with SPS requirements of trading partners. Ukraine was also working on access to more than 27 new international markets for Ukrainian agricultural products. Finally, Ukraine referred to the "grain corridor" established by the Black Sea Grain Initiative, which had allowed the exports of grains through the Black Sea with 55 per cent of exports going to developing countries. The continuation of the Black Sea Grain Initiative was crucial for global food security.

2.11. Expressing their support, several Members showed appreciation for Ukraine's efforts to fulfil its WTO SPS obligations, maintain food safety standards, and deliver food to international markets. The European Union, Canada, the United States, the United Kingdom, New Zealand, Australia, Japan, Switzerland, and Chinese Taipei strongly condemned the Russian Federation's military action in Ukraine, noting that it constituted a violation of international law and the UN Charter. Several Members stated that the invasion was exacerbating the current food security crisis, had inflated prices, and increased global hunger since Ukraine was unable to export and inspect its grain. Members called on the Russian Federation to withdraw its forces and cease military operations in Ukraine. Türkiye indicated it would continue diplomatic efforts to ensure food security.

2.12. The Russian Federation indicated that it continued to participate in global efforts to prevent food insecurity and hunger in developing countries and least developed countries (LDCs). In the Russian Federation's view, allegations that it contributed to the global food crisis were preposterous, in particular given other systemic factors, such as economic sanctions, rising interest rates and commodity prices, COVID-19 economic challenges, bad weather conditions, and the introduction of biofuel technologies. Referring to the Grain Deal Initiative, which had been prolonged under the condition of achieving tangible progress in accordance with the Russia-UN memorandum on the normalization of domestic agricultural exports, the Russian Federation lamented that the main destination of Ukrainian food shipments remained high-income countries. Finally, the Russian Federation took the view that the Committee should refrain from discussing issues not within the scope of the WTO. Referring to attempts to politicise the Committee, the Russian Federation requested the Chairperson to moderate the discussions in accordance with the agenda and working procedures of the Committee.

## **2.2 Information from Codex, IPPC and WOAH on relevant activities**

### **2.2.1 Codex ([G/SPS/GEN/2109](#))**

2.13. Codex presented its report on relevant activities in document [G/SPS/GEN/2109](#), highlighting key outcomes of the last Codex Alimentarius Commission session and work on cross-cutting issues at executive committee level. Codex referred to ongoing discussions on emerging food safety issues as well as discussions on the future of Codex and available mechanisms to improve its work on normative issues. The latter would also focus on conceptual issues, such as how Codex could best contribute to resilient and sustainable food systems through the development of food safety standards. Codex further drew the Committee's attention to the draft guidance on the application of the statements of principle concerning the role of science in the Codex decision-making process, and committee work on food hygiene and veterinary drugs. In addition, referring to comments made in the context of the MC12 SPS Declaration thematic groups<sup>2</sup>, Codex indicated that it would try to focus on key elements of discussion and provide forward-looking insight in upcoming reports.

2.14. The European Union congratulated Codex on its 60<sup>th</sup> anniversary and reminded the Committee of the world food day and its motto "food standards save lives". Building on this intervention, Codex invited Members to contribute to its various anniversary activities.

### **2.2.2 IPPC ([G/SPS/GEN/2104](#))**

2.15. The IPPC presented its report on relevant activities in document [G/SPS/GEN/2104](#). Acknowledging Members' remarks in the context of the MC12 SPS Declaration thematic groups<sup>3</sup>, the IPPC commented on the upcoming 17<sup>th</sup> Session of the Commission on Phytosanitary Measures (CPM-17). The following items were on the agenda: four draft International Standards for Phytosanitary Measures recommended for adoption, adjustments to the IPPC standard setting

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<sup>2</sup> More information on the MC12 SPS Declaration work programme is available in the dedicated webpage: [WTO | SPS Declaration at MC12](#).

<sup>3</sup> More information on the MC12 SPS Declaration work programme is available in the dedicated webpage: [WTO | SPS Declaration at MC12](#).



procedure, a new draft CPM recommendation on sea containers, a report on current IPPC focus groups, and emerging topics. CPM-17 would be complemented by side sessions, including on the African phytosanitary programme initiative and sea containers. The IPPC also updated on ePhyto progress, indicating that 115 countries had registered to the ePhyto solution as of February 2023.

### 2.2.3 WOH (G/SPS/GEN/2106)

2.16. WOAH highlighted a few points from its report in document [G/SPS/GEN/2106](#). WOH provided information on the programme for its 90<sup>th</sup> Annual General Session of its World Assembly of Delegates. In addition to standard setting activities, the programme included an innovative Animal Health Forum with a focus on AI, as well as side events and exhibition stands to allow delegations to interact with experts on a number of initiatives. WOH Specialist Commissions had continued work to review existing, and develop new, standards, with many revisions to be put forward for adoption, such as revised chapters on bovine spongiform encephalopathy (BSE) and foot and mouth disease (FMD) in the Terrestrial Code. WOH further pointed to updates on the joint initiative for the Global Control of ASF, an upcoming Global Conference on Emergency Management as well as its Observatory, PVS pathway, and training platform.

2.17. Following the interventions from Codex, the IPPC, and WOH, the United States took the floor to welcome the International Standard Setting Bodies' (ISSBs) in-person attendance at the Committee. The United States invited ISSB representatives to share with their respective leaderships that in-person attendance was viewed as important to maintain and strengthen the connection between the Committee and the ISSBs. The United States equally suggested that the WTO SPS Secretariat and the STDF were previously invited to participate in person at relevant ISSB meetings and that practice should be encouraged and reinstated.

## 3 SPECIFIC TRADE CONCERNS

3.1. Before the adoption of the agenda, India withdrew four new STCs: Brazil's MRLs for prothioconazole ([G/SPS/N/BRA/2054](#)); Brazil's modifications of MRLs and pre-harvest intervals (PHI) inconsistent with established risk assessment guidelines by FAO ([G/SPS/N/BRA/2029/Add.2](#)); Brazil's modifications of MRLs and pre-harvest intervals (PHI) inconsistent with established risk assessment guidelines by FAO ([G/SPS/N/BRA/2029/Add.2](#)); and South Africa's MRLs for abamectin, pyraclostrobin and chlorpyrifos ([G/SPS/N/ZAF/78](#)). The STCs removed had been included in the draft annotated agenda circulated as [JOB/SPS/26](#). Regarding previously raised STCs, Chinese Taipei did not raise the STC "China's actions related to COVID-19 that affect trade in food and agricultural products ([ID 487](#))", which was only raised by Australia, Japan, and the European Union.

### 3.1 New issues

#### 3.1.1 Australia's MRLs stricter than Codex standards in products of interest to India - request to share risk assessments ([G/SPS/N/AUS/555](#)) (ID 559) - Concerns of India

3.2. India expressed concerns regarding Australia's reduction of the level of MRLs to stricter than Codex standards for glufosinate and glufosinate-ammonium and glyphosate. India was the largest producer of non-genetically modified (GM) soybeans and had export potential to Australia. According to India, the MRLs would act as a barrier to trade for Indian non-GM soybean crops. India also requested responses to a number of inquiries, which included clarification on the appropriate level of protection (ALOP), scientific evidence used for the modification of MRLs, harmonization obligations under the SPS Agreement, sharing of risk assessment results, other legitimate factors taken into account when establishing and granting import tolerances, the list of the substances and MRLs that had already been updated, and a list of substances and MRLs currently in the evaluation phase.

3.3. Australia clarified that the Food Standards Australia New Zealand and the Australian Pesticides and Veterinary Medicines Authority worked together to assess the safety of chemicals used in food production and any residues of these chemicals in food using sound scientific methods and according to good agricultural and veterinary practices. Australia clarified that the notification included proposed amendments for oilseeds, mustard oil seeds, and oilseed except rape seed, but there were no proposed variations to the existing soybean MRLs. Australia noted that the existing soybean MRLs for glyphosate and glufosinate-ammonium aligned with Codex MRLs and were both

higher than the domestic limits imposed on Australian farmers. Australia would welcome requests to align with Codex or Indian MRLs when such MRLs were required to facilitate imports of foods treated with pesticides or veterinary medicines into Australia. Australia also noted the availability of an online guide for submitting such requests and advised Members that a call for requests would be published online around May 2023.

### **3.1.2 New Zealand's amendment of MRLs for cyantraniliprole, tetracyclines and trichlorfon (G/SPS/N/NZL/695) (ID 560) - Concerns of India**

3.4. Taking note of notification [G/SPS/N/NZL/695](#) and referring to Discussion Paper No. 2022/05 of August 2022, [India](#) requested that New Zealand share the relevant scientific basis and rationale justifying the specification of the MRL for cyantraniliprole for tomatoes as 0.1 mg/kg.

3.5. [New Zealand](#) clarified that notification [G/SPS/N/NZL/695](#) did not change the MRL for cyantraniliprole in tomatoes. The New Zealand MRL for cyantraniliprole in tomatoes was set lower than Codex levels as it reflected the low residue levels obtained during the MRL setting process, which were most likely associated with lower domestic application rates of the pesticide or insecticide. While domestic producers were required to meet the New Zealand MRL, imported tomatoes were permitted to use either the Codex MRL or the New Zealand MRL in recognition of the variation in food production conditions around the world.

### **3.1.3 China's suspension of beef imports due to bovine spongiform encephalopathy (BSE) restrictions (ID 561) - Concerns of Canada**

3.6. [Canada](#) noted its concerns with China's complete and long-term suspension of beef imports from Canada based on a single case of atypical BSE, which did not affect Canada's WOH BSE negligible risk status. Canada had continuously engaged with and responded to all requests from China, but were still waiting for restoration of trade for over a year now. China had previously allowed the resumption of beef exports from trading partners that had reported atypical BSE cases quickly, and Canada requested similar treatment. Canada urged China to work collaboratively to resolve this issue and to achieve their common objective of avoiding unnecessary barriers to trade and contributing to food security.

3.7. The [European Union](#) echoed the concerns expressed by Canada, noting that it had experienced a similar blockage of exports due to an atypical case of BSE in one of the EU member States. The European Union welcomed bilateral discussions with China.

3.8. [China](#) noted that it took a highly cautious approach with respect to BSE as China had a WOH BSE negligible risk status, with no cases of BSE previously reported. China indicated it was organizing experts to conduct a risk assessment on atypical BSE cases submitted by Canada and would provide an update to Canada on the results. China indicated that it would make its response to the European Union under another STC.

### **3.1.4 China's import restrictions on heat-treated pet food containing poultry ingredients due to highly pathogenic avian influenza (ID 562) - Concerns of Canada**

3.9. [Canada](#) raised its concerns regarding China's trade restrictions on exports of Canadian heat-treated pet food containing poultry ingredients. Following confirmation of highly pathogenic avian influenza (HPAI) in Canada, China had halted Canadian exports of heat-treated pet food containing poultry ingredients while accepting these products from other HPAI affected Members. Canada reminded that WOH had identified extruded dry pet food as safe regardless of HPAI status because the product was heat-treated sufficiently to inactivate HPAI pathogens, and Canadian pet food products were treated at a temperature that exceeded WOH recommendations. Canada noted that SPS measures should be based on international standards, guidelines, or recommendations, and not discriminate between Members. Canada urged China to remove its restrictions as per WOH guidelines.

3.10. [China](#) clarified that canned pet food from Canada were not affected by the AI outbreaks and could still be exported. China indicated that there were still risks of AI spreading for heat-fried pet food, as the virus might not be inactivated due to the insufficiency of heating temperature and time during the relatively simple drying process. China would like to keep technical bilateral exchanges.

### **3.1.5 Mexico's import restrictions due to African swine fever (ID 563) - Concerns of the European Union**

3.11. The European Union expressed concerns regarding country-wide import suspensions imposed by Mexico on pork products from EU member States that had reported ASF outbreaks. The European Union regretted the lack of progress despite repeated requests for Mexico to respect its obligations, apply regionalization to pork meat imported from the European Union, and allow trade from disease-free areas, most recently raised at a EU-Mexico SPS subcommittee meeting in October 2022. The European Union reiterated its availability to engage bilaterally to solve this matter.

3.12. Mexico confirmed that, following outbreaks of ASF, the European Union had requested regionalization for the territories of Germany, Italy, and Poland. Mexico had responded to the communications by the European Union at a bilateral Free Trade Agreement Committee meeting and reiterated its willingness to continue to share technical information on relevant import conditions.

### **3.1.6 South Africa's delays in granting SPS access for poultry, beef, pork, fish and seafood (ID 564) - Concerns of the Russian Federation**

3.13. The Russian Federation raised concerns regarding South Africa's delays in granting market access for Russian livestock products. The Russian competent authority had requested South Africa to accelerate the process of reviewing answers on questionnaires regarding risk analysis for imports of beef, poultry and pork, as well as a questionnaire on BSE. The Russian Federation reminded of its WOH status as a country with zones free from FMD and country free from BSE. The Russian Federation invited South Africa to inspect Russian livestock enterprises and to develop bilateral scientific and technical cooperation in the field of food and biological safety. Expressing its readiness for bilateral cooperation, the Russian Federation reiterated that approval procedures needed to be undertaken and completed without undue delay.

3.14. South Africa appreciated the interest shown by the Russian Federation in gaining market access for certain products. South Africa indicated that it continued to engage with Russia, it had sent the procedure to be followed to open a new market, and was awaiting a response from Russia's Veterinary Authorities.

### **3.1.7 India's approval procedures to import plants, animals and their products (ID 565) - Concerns of the European Union**

3.15. The European Union regretted that India's approval procedures were unclear and slow and that the standard and anticipated processing periods had not been communicated. India had not provided information on the stages of the assessment procedure and what information might be missing or deficiencies might have been found for the approval of new exports. India had also not provided information on the specific non conformities for existing exports, which prevented the European Union from implementing corrective actions. The European Union reminded that there were a number of pending applications. Some of them had been pending for almost 10 years with no progress being achieved so far. The European Union urged India to comply with its WTO SPS obligations by ensuring transparency of its import legislation and approval procedures, and to provide requested clarifications to allow the finalization of the pending market applications without undue delay.

3.16. In the absence of a statement provided in advance of the Committee meeting, India did not have inputs from capital to respond to the EU comments. India took note of the EU comments and requested that the statement be provided to enable a response.

### **3.1.8 India's undue delay in importing twelve species of fresh mushrooms (ID 566) - Concerns of Korea**

3.17. Korea raised concerns that six years had passed since an agreement had been reached on the import requirements for 12 Korean fresh mushrooms ([G/SPS/N/IND/131](#)), but yet India had not allowed the import of these 12 Korean fresh mushrooms. In the context of a Korea-India Comprehensive Economic Partnership Agreement SPS Joint Working Group Meeting of November 2022, India had proposed to re-initiate a pest risk assessment for three species of

Korean fresh mushrooms, although a pest risk assessment had been previously completed for all 12 species. Korea considered that India's proposal was not consistent with IPPC standards (ISPMs 2 and 11). Korea urged India to allow the import of all 12 species of Korean fresh mushrooms.

3.18. India indicated that the issue raised by Korea was a market access issue, not an SPS issue. India noted that the SPS Committee was not the right forum to raise this matter.

### **3.1.9 Japan's approval procedures to import plant products (ID 567) - Concerns of the European Union**

3.19. The European Union expressed concerns regarding Japan's lengthy, burdensome, and unpredictable approval procedures for plant products. The European Union noted that, despite many meetings and the provision of all the necessary information, EU plant producers faced difficulties to gain market access, there were unjustifiable delays (some dating more than 20 years), and there were new requirements introduced during the approval process. The European Union also expressed concerns about Japan's choice of a single plant product per country for assessment while suspending any other plant product application from that country. The European Union considered Japan's approach not to be in line with the EU-Japan Free Trade Agreement or the SPS Agreement as it artificially limited the possibility of progressing multiple applications, lacked transparency and resulted in undue delays. The European Union looked forward to continuing cooperation with Japan on these issues.

3.20. Japan regretted that the European Union raised the issue as an STC given ongoing bilateral discussions. Japan indicated that approval procedures took time because of delays in submission of scientific information from the requesting country. Japan suggested that the European Union get a better understanding of the state of play concerning each EU member State application. Japan further indicated it had received a large number of requests for market access for plant products from many countries and regions, but that its resources to conduct the risk assessments were limited. As such, Japan used a one item approach to carry out assessments. While noting that procedures for lifting the import ban of a plant products in Japan were established and made publicly available as "Standard Evaluation Procedure for the Request for Lifting a ban on plant import under Plant Quarantine", Japan was willing to engage in bilateral discussions.

3.21. The European Union noted it was aware of the state of play of all the pending applications. Some delays that Japan attributed to an EU member State were due to the burdensome requirements, which discouraged EU member States from completing the procedure.

3.22. Japan indicated that it had explained its standard evaluation procedure many times, including at Japan-EU Economic Partnership Agreement SPS sub-committee meetings, but would be happy to provide the information again.

## **3.2 Issues previously raised**

### **3.2.1 EU MRLs for alpha-cypermethrin, buprofezin, chlorothalonil, chlorpyrifos, chlorpyrifos-methyl, diflubenzuron, ethoxysulfuron, glufosinate, imazalil, ioxynil, iprodione, mancozeb, molinate, picoxystrobin and tepraloxym (ID 448 - See also related STCs ID 453, 454, 457, 474, 475, 517) - Concerns of Paraguay, the United States, Ecuador and Costa Rica**

3.23. Paraguay reiterated its commercial and systemic concern regarding the EU reduction of MRLs for phytosanitary products to the limit of detection on the basis of scientific uncertainty, which violated Articles 5.1 and 5.7 of the SPS Agreement. Paraguay considered that the routine use of emergency authorizations by EU member States was discriminatory and could conflict with the level of protection that the European Union stated it established for its consumers. Paraguay's rice exports were being affected by the MRL of 0.01 mg/kg established for tricyclazole in Regulation (EU) No 2017/983, for which the import tolerance requested in 2018 had only been recommended for approval by the European Food Safety Authority (EFSA) in December 2022. To Paraguay, these negative effects could have been avoided had its request for longer transition periods been taken into account. Paraguay requested the European Union, when dealing with scientific uncertainty, to: (i) grant transition periods to maintain trade while ensuring its consumer health ALOP; (ii) allow for early intervention of trading partners in EFSA assessment processes; and

(iii) take risk-based, not hazard-based, decisions. Paraguay sought clarification on the ruling of the Court of Justice of the European Union (CJEU) on emergency authorizations for substances other than treated seeds and products other than neonicotinoids. The European Commission and EU member States were asked to respond to the questions in document [G/SPS/GEN/2080](#).

3.24. The United States recalled Members' obligation to apply least restrictive measures that accomplished their stated level of protection, and invited the European Union to consider the concerns raised by many WTO Members. The United States was of the view that the continued use of emergency authorizations for active substances no longer approved demonstrated the importance of certain crop protection tools and the lack of effective and economical alternatives, and that the implemented transition periods were insufficient and imported products appeared to be treated differently than domestic products. It was also important to use a risk-based process and have access to the full range of tools and technologies available for agricultural production. The United States submitted its statement in document [G/SPS/GEN/2111](#).

3.25. Ecuador invited the European Union to adhere to Codex standards and not to base its decisions on the precautionary principle. Underscoring investment needed, Ecuador detailed the long process to find alternative substances and indicated trading partners needed at least five years to adapt their agricultural practices. Ecuador regretted that the reduction of MRLs for nine substances established in Regulation (EU) No 2021/155 ([G/SPS/N/EU/394/Add.1](#)) affected market access and contradicted good agricultural practices. Ecuador complained that EU trading partners did not have access to the emergency authorizations granted to EU producers, which could be renewed. Ecuador requested EU member States to provide answers to the questions in document [G/SPS/GEN/2076](#).

3.26. Costa Rica's concerns related to the impact that the reduction of MRLs to the level of detection could have on its production system. No alternatives were available for the relevant substances, which were necessary for production in tropical climates. Costa Rica reiterated its concerns about the lack of conclusive scientific evidence and the divergence from the conclusions reached in other international fora, namely with Codex MRLs, as had also been expressed in the TBT Committee and the Council for Trade in Goods (CTG). Expressing willingness to cooperate towards trade facilitating solutions in line with the SPS Agreement, Costa Rica asked the European Union to reconsider its regulatory approach and incorporate measures that reduced impact on global food security.

3.27. Reiterating its support to the concern, El Salvador insisted that measures should be based on conclusive scientific evidence to avoid unnecessary trade restrictions (which mainly affected small producers) and should provide appropriate transition periods.

3.28. Recognizing the EU's right to take SPS measures, the Dominican Republic recalled that SPS measures should be based on science and not maintained without scientific evidence. The Dominican Republic underscored the importance of imazalil in post-harvest treatments for crops, such as banana, mango, and avocado. These represented about 20% of its total annual food exports and were mainly destined to the EU market. Noting the lack of substitutes, the Dominican Republic lamented that the reduction of the MRL for imazalil would negatively affect the agricultural sector and urged the European Union to find alternative solutions without unnecessarily impairing trade, establish MRLs for the affected molecules based on scientific evidence, or remove the measures. The Dominican Republic stated that the reduction of MRLs to the level of quantification did not contribute to the protection of consumer health and violated Articles 2 and 5 of the SPS Agreement.

3.29. Argentina's concern comprised technical and structural aspects affecting Members from all regions. Recalling the importance of science-based SPS measures, Argentina urged the European Union to apply a risk-based approach to its regulatory changes. In Argentina's view, this concern was to be considered as part of a proliferation of unilateral, extraterritorial measures aimed at protecting EU producers, without considering local circumstances, lack of available alternatives, and ISSB standards. Finally, Argentina reiterated its concerns about the lack of solutions to these measures that hindered trade, undermined trust, and reduced the possibilities for sustainable development through international trade.

3.30. Uruguay reiterated its concerns regarding the EU approach to MRL reduction for an increasing number of substances (mancozeb, imazalil, iprodione, and buprofezin) to limits lower than those of Codex without a scientific risk assessment. Uruguay concurred with other Members that emergency

authorizations granted by EU member States to domestic producers could conflict with EU health protection policies and trading conditions with third countries. Uruguay sought clarification on how the CJEU ruling would affect considerations for emergency authorizations. Highlighting that pesticide regulations should be non-discriminatory and based in scientific principles and risk assessments, Uruguay pointed out that sufficient transition periods should be granted for producers to adapt to modified MRLs. Uruguay requested the European Union to reconsider its regulatory approach to avoid adverse effects on other Members and hoped that the EU openness to participate in a dialogue would lead to a solution to this concern.

3.31. Canada reiterated the need for risk-based decision making and requested the European Union to harmonize MRLs with Codex limits or to maintain MRLs for substances that did not pose unacceptable dietary risks unless a full risk assessment had been completed. Despite recent constructive engagement, Canada was of the view that the granting of emergency use authorizations to access banned pesticides to address pest pressures, which were not granted to foreign producers, discriminated third country producers. In Canada, products or uses with unacceptable health or environmental risks could not be considered for emergency use authorizations. Canada asked the European Union to explain the circumstances for rejection of emergency use authorization requests, how many requests had been rejected each year, if the data on the use of emergency authorizations was used to determine the substances that farmers required to produce food, and whether it would consider reinstating certain active substances that posed little or no dietary risks. The European Union had stated that food from an EU member State that contained above EU MRL of substances authorized under emergency authorizations could not be traded. Canada sought clarification on how the European Union enforced this policy.

3.32. Noting the challenges facing tropical countries, Guatemala reiterated its concern regarding EU departure from Codex standards, which affected exports of developing countries. Guatemala regretted that the European Union disregarded other Members' climate-related factors, and insisted on the need of longer transition periods to undertake field analysis. Guatemala clarified that trade effects were calculated in export volumes, not in food prices, and anticipated increased trade impacts as well as social and economic effects in rural areas as of 2024. In Guatemala's view, import tolerances were not an alternative to the reduction of MRLs to the level of detection, since most developing countries did not have the capacity to present complete data and evaluations on the substances. Guatemala asked the European Union to provide responses to the questions in document [G/SPS/GEN/2076](#), which aimed at further understanding challenges faced by EU producers with respect to emergency authorizations, an exception not granted to producers in third countries.

3.33. Regretting the lack of changes in EU MRLs, Peru was of the view that the measures were more trade restrictive than necessary, contrary to the SPS Agreement and international standards.

3.34. In Brazil's view, the EU MRLs policy increasingly deviated from the SPS Agreement and did not provide a level playing field for foreign and domestic producers. Brazil recalled that setting MRLs should be based on realistic exposure scenarios and take into account potential trade impact. Brazil invited the European Union to consider trade facilitative approaches in line with the SPS Agreement, with longer transitional periods and early and effective engagement in the process.

3.35. Panama reiterated its concern regarding the non-renewal of the substances, also raised in the TBT Committee and the CTG. The lack of alternatives for substances such as mancozeb severely affected Panama's exports to the European Union. While sharing the EU objective and recognizing Members' rights to determine their ALOP, Panama recalled that SPS measures should be based on science and Codex standards and comply with the SPS Agreement. Panama requested the European Union to reconsider its regulatory approach and respond to the questions in document [G/SPS/GEN/2076](#).

3.36. Colombia referred to articles 18(4) and 53 of Regulation (EC) No 396/2005 and article 4.7 of Regulation (EC) No 1107/2009. Noting that its producers faced similar challenges than those of the European Union, Colombia indicated that flexibilities granted to domestic producers could be discriminating against producers from other WTO Members. Colombia requested the European Union to review its measures on MRLs and provide a fair and equitable treatment to other Members.

3.37. Reiterating its support for this concern, Chile indicated that the non-renewal of mancozeb affected national production of stone fruits and apples. Chile requested the European Union to reconsider its measures to maintain the flow of international trade.

3.38. The European Union referred to the numerous answers already provided, information sessions, details on the ongoing revisions of MRLs circulated as [G/SPS/GEN/1494/Rev.2](#), and its presentation on the EU risk assessment process and harmonization with Codex MRLs delivered in the context of the [Thematic Session on Trade Facilitative Approaches to Pesticide MRLs](#). Praising its trusted, transparent and predictable food safety approach, the European Union emphasized that its policies had never impeded imports of agricultural commodities. On emergency authorizations, the European Union referred to documents [G/SPS/GEN/1970](#) and [G/SPS/GEN/2038](#), guidance document SANCO/10087/2013/Rev.1 and article 53 of Regulation (EC) No 1107/2009. The European Union clarified that the purpose of emergency authorizations was to deal with serious dangers for plant health in emergency situations where there were no better alternatives. The European Union explained that the CJEU ruling forbade the granting of emergency authorizations for outdoor uses of thiamethoxam or clothianidin and for the sowing of seeds that had already been coated with either of these substances. The Commission had not yet established a position on the implications of the ruling for the granting of other emergency authorizations.

3.39. The European Union indicated that decisions on the approval of active substances and on MRLs were based on risk assessments carried out by EFSA and EU member States. The relevant scientific data was available on the EFSA website and in the rationale of each EU decision. The European Union worked with the ISSBs to reach a framework of internationally agreed standards, that were generally the basis of EU's health measures. In accordance with Regulation (EC) No 395/2005, EU MRLs were regularly and systematically aligned with Codex MRLs, and the science-based deviation from international standards was justified for the protection of public health, in line with Article 3 of the SPS Agreement. Recalling the dialogue on pesticide MRLs organized with interested Members, the European Union informed the Committee it was working on replies to questions asked by Members. The European Union reiterated its openness to engage in discussions.

### **3.2.2 EU legislation on endocrine disruptors (ID 382) - Concerns of Paraguay**

3.40. Paraguay reiterated its commercial and systemic concern regarding the EU reduction of MRLs on the basis of hazard and scientific uncertainty. Paraguay stated that Members' right to determine their ALOP could not be inconsistent with their international obligation to base measures on risk analyses. Paraguay was of the view that the EU approach had led to a *de facto* ban of the use of phytosanitary products in food products destined to the European Union. Referring to the discussions held in the context of the MC12 SPS Declaration, Paraguay regretted that the removal of tools and inputs for production of safe food products without scientific basis was contrary to the shared objectives of transforming food systems to ensure sustainability and global food security. Paraguay urged the European Union to review its measures to ensure consistency with the SPS Agreement and positively contribute to collective challenges.

3.41. Brazil reaffirmed that the criteria for determining endocrine-disrupting substances had to be established in accordance with Article 5 of the SPS Agreement, in line with available scientific evidence to avoid unnecessary trade restrictions. Brazil highlighted the importance of conducting risk assessments appropriate to the circumstances and the need to obtain additional information necessary for an objective assessment of risk.

3.42. Its position remaining unchanged since the last Committee meetings, Ecuador referred to its statement in eAgenda. Ecuador illustrated its disagreement with the European Union indicating that, in its view, mancozeb had been banned due to alleged endocrine-disrupting effects.

3.43. Referring to its previous interventions in support of this concern, Guatemala underscored the negative consequences on trading partners of the EU hazard-based approach for endocrine disruptors on the establishments of new MRLs of key substances used in agriculture in tropical countries. Guatemala urged the European Union to consider the importance of harmonization of measures at a global level.

3.44. Costa Rica reiterated its concern regarding the EU approach for the implementation of Regulation (EC) No 1107/2009, which led to the adoption of hazard-based decision criteria.

Costa Rica urged the European Union to ensure a risk-based implementation of its regulation, with criteria based on sufficient scientific evidence, in line with the SPS Agreement.

3.45. Peru was of the view that the EU regulation violated the SPS Agreement, namely, its Article 5. A hazard-based approach could lead to measures more trade-restrictive than necessary and have a negative effect on trade in food.

3.46. Uruguay reiterated its commercial and systemic concerns regarding the EU adoption and implementation of a hazard-based approach for products with potential endocrine-disrupting properties. Uruguay underscored the need to base such determinations on conclusive scientific evidence to avoid removing from the market safe active substances without contributing to the stated objective of public health. Uruguay continued to support multilateral work undertaken at Codex to develop a harmonized, risk-based approach that ensured health protection while facilitating international trade. Uruguay called on the European Union to address Members' concerns and reconsider its regulatory approach to avoid discrimination and unjustified trade restrictions.

3.47. Chile reiterated its concern about the EU approach to pesticide regulation, which was generating a progressive loss of safe phytosanitary resources. In Chile's view, the hazard-based cut-off criteria in Regulation (EC) No 1107/2009 deviated from the internationally agreed principles of risk analysis and unnecessarily lowered MRLs for commonly used substances.

3.48. Noting that no new information had become available since the previous SPS Committee meeting, the European Union affirmed that scientific criteria to identify endocrine disruptors were based on the WHO definition and had been applicable since November 2018. The European Union reiterated that, to date, there had been no cases of non-approval of substances solely based on endocrine disruptor criteria that had been followed by the lowering of MRLs. For all substances, classified as endocrine disruptors, for which MRLs had been lowered following the non-approval under Regulation (EC) No 1107/2009, other intake concerns had been identified. The European Union noted that imports of the potentially affected commodities had grown since 2018 and, therefore, the alleged trade barriers had not materialized. The European Union noted the numerous responses already provided and reiterated its commitment to keep Members informed of further developments.

### **3.2.3 EU import tolerances for certain pesticides to achieve environmental outcomes in third countries (ID 534) - Concerns of Australia, Ecuador and China**

3.49. Australia questioned the design of the EU regulation on the neonicotinoid insecticides clothianidin and thiamethoxam, notified to the TBT Committee. Australia was of the view that only food safety risks should drive decisions regarding import MRLs. Australia considered that using food MRLs as a proxy to pursue environmental standards outside EU's borders was incompatible with international standards and guidelines and threatened third countries' ability to apply their own environmental policies, in contradiction with WTO rules. Australia considered MRLs as an inappropriate tool to achieve environmental outcomes and highlighted that third country national authorities were the best decision makers for the responsible and sustainable application of pesticides in their own unique environment. Australia requested the European Union to provide robust scientific evidence in support of the link between the lowering of MRLs to the limit of determination and pollinator health.

3.50. Ecuador shared the concern regarding the EU's extraterritorial objectives, which did not seem to follow WTO rules. The EU proposal to use non-tariff trade barriers for environmental protection disqualified the legislation of trading partners. Asking about the regulatory basis for the decision, Ecuador observed that the non-renewal of a substance or the lowering of MRLs without conclusive risk analyses regarding the effects of neonicotinoids on human health and pollinators was leading to a *de facto* market closure, affecting small producers. Ecuador invited the European Union to notify the measure to the SPS Committee and continue the dialogue to avoid unnecessary trade barriers.

3.51. China appreciated the opportunity to comment on the notification [G/TBT/N/EU/908](#) and invited the European Union to notify the proposed MRL developments to the SPS Committee. China was of the view that the scientific basis underpinning the revoking and lowering of MRLs for clothianidin and thiamethoxam due to the risk to bees was not sufficient. China noted the lack of scientific consensus on the reason for the decline in honeybee colonies, while the combination of



parasites, pesticides, pollen deficiency, and climate change might be the reason for the decline in honey bee colonies. China recommended that the European Union provide the relevant data and risk assessment report in order to confirm the validity and completeness of the risk assessment of neonicotinoid pesticides on bees.

3.52. Paraguay reiterated its concern regarding the EU intention to use MRLs for clothianidin and thiamethoxam as a means to regulate the use of neonicotinoids in third countries, and consistency with WTO obligations. While sharing the EU's environmental objectives, Paraguay underscored the specific needs and challenges each country faced to ensure and maintain a sustainable agriculture. Paraguay regretted that the comments submitted by trading partners to notification [G/TBT/N/EU/908](#) had not been taken into account. Paraguay complained that Regulation (EU) No 2023/334 made incorrect references to its country and requested an update on the concerns that had been raised in Brussels. Referring to the CJEU ruling on the banning of emergency authorizations for neonicotinoids, Paraguay invited the European Union to review its policies.

3.53. Sharing the systemic concerns expressed by Members, Costa Rica affirmed that the common objectives of environmental protection should be pursued in line with the obligations under the multilateral trade system. MRLs were established to ensure food safety and, as such, Costa Rica questioned the EU justification to reduce MRLs on the basis of global environmental concerns. This justification was not within the scope of the SPS Agreement, nor was it a legitimate objective under the TBT Agreement for the introduction of a technical requirement. Costa Rica urged the European Union to reconsider its regulatory approach, listen to concerns expressed by Members, and review its measures in light of the SPS Agreement.

3.54. The United States recalled that Members' actions to pursue shared sustainability goals should be consistent with WTO rules, and echoed concerns regarding the extraterritorial application of EU environmental domestic policies. The United States reinforced the need for diverse approaches in different regions and noted the unclear link between the stated objective of protecting global pollinator health and the EU requirement that imported food and agricultural products meet the reduced MRLs for clothianidin and thiamethoxam. In its view, pesticide MRLs were not the appropriate tool to address environmental health objectives and the EU measure restricted trade more than necessary, given a shared scientific understanding that pollinator health was affected by complex interactions among multiple factors. The United States submitted its statement in document [G/SPS/GEN/2112](#).

3.55. Canada was concerned that the European Union was integrating considerations of global environmental impacts in its MRL and import tolerance setting processes, which were not effective to address non SPS-objectives and conflicted with international trade rules. Stating that the EU policy agenda of the Farm to Fork Strategy should not have extraterritorial implications, Canada complained the EU measures were undermining Members' initiatives to reach their own sustainability objectives. Canada expressed its willingness to cooperate with other Members in other multilateral fora that were more appropriate to address global environmental challenges. Underscoring the robustness of its regulatory system, Canada urged the European Union to maintain its MRLs or harmonize with Codex MRLs if a pesticide residue did not pose dietary risks to EU consumers.

3.56. Acknowledging the responses provided by the European Union, Uruguay was concerned that Regulation (EU) No 2023/334 had been approved without substantive changes, despite Members' comments. Uruguay referred to the definition of MRLs in food and feed contained in Regulation (EC) No 396/2005, and noted that MRLs were a tool to ensure food safety. As such, Codex was the relevant international organization, which adopted MRLs contemplating health issues and not environmental aspects. In its view, the establishment of MRLs by each Member should be underpinned by a risk assessment, taking into consideration its production and regulatory system. Uruguay expressed its willingness to cooperate with other Members to find mechanisms towards the protection of pollinators, ensuring the preservation of the environment and the protection of human health, without compromising food security nor restricting trade. Nonetheless, Uruguay questioned the relevance and the legal basis of the reduction of MRLs to the level of determination due to global environmental concerns or issues other than human health. Highlighting that SPS measures should be in line with the SPS Agreement, Uruguay reiterated its interest in following further considerations of the use of emergency authorizations in light of the CJEU ruling.

3.57. Argentina questioned the unilateral and extraterritorial nature of the EU approach and related trade measures, which seemed to be inconsistent with WTO rules and principles of international law. Argentina highlighted methodological weaknesses in the EU approach, which disregarded the principles of permanent sovereignty over natural resources and of common but differentiated responsibilities, as well as the obligation to grant special and differential treatment.

3.58. Japan regretted that the European Union had adopted the measures without taking due account of Members' concerns at the TBT Committee. Japan was of the view that any reduction of EU MRLs for the neonicotinoid pesticides clothianidin and thiamethoxam should be discussed with third countries and that regulations for environmental protection should be set by each Member, reflecting its particular environment. Japan sought clarification on the kind of scientific evidence to be provided in the application for import tolerances and on the criteria to measure the unacceptable risk to pollinators. Japan asked if a standard value established for a specific crop as a result of the application for an import tolerance by a third country would also apply to the product imported into the European Union from other third countries.

3.59. New Zealand shared the concern on pollinators decline and noted the diversity of potential causes. Emphasizing that national authorities were the best decision makers on the sustainable use of pesticides at the domestic level, the import measures imposed unilaterally by the European Union were of concern to New Zealand. New Zealand encouraged all WTO Members to address global environmental issues multilaterally and use least trade restrictive measures for desired outcomes.

3.60. Israel was of the view that the EU SPS measure pursued a TBT-related objective and sought clarification on the reason for the application of the measure to food and feed only, the establishment of a limit of quantification for products produced in greenhouses, and the granting of emergency authorizations with the stated objective of allowing member States to address serious damages for plant health, not to facilitate trade. Israel urged the European Union to reconsider its legislation and continue the debate in other fora.

3.61. Guatemala affirmed that each country had the right to choose its measures to address global concerns regarding protection of pollinators. MRLs were a tool to ensure food safety, and the EU proposal seemed to deviate from the objective to protect human health. Guatemala requested the European Union to base its measures on science; to share technical information underpinning the reduction of MRLs; to continue the dialogue to find solutions; and to notify the measure to the SPS Committee.

3.62. Recalling Members' obligations to base measures on science and to adopt the least trade restrictive measures, Colombia complained that the reduction of MRLs would negatively affect exports to the European Union and the livelihoods of rural producers. Underscoring the importance of pollination, Colombia recalled it was part of the Convention on Biological Diversity and had adopted strict domestic measures. Colombia was of the view that the objective of the EU measure was not proportionate to its trade-disruptive effects.

3.63. The Dominican Republic noted the challenges faced by Members, namely, small and vulnerable economies, as triggered by EU policies, and highlighted the need for a gradual adaptation of productive activities. Referring to the EU 2021-2027 cooperation agenda for third country Members, the Dominican Republic complained about the constant changes introduced in the EU regulations, which affected their national legislation. In its view, Members needed to base their measures on risk assessments, in line with the SPS Agreement, to be able to fulfil the mandate of the MC12 SPS Declaration. The Dominican Republic expressed its willingness for an effective cooperation with the European Union to improve sustainability and health in a cost-efficient manner.

3.64. Noting the number and variety of Members supporting this concern, Brazil shared the view that environmental purposes were outside the scope of the SPS Agreement. Brazil emphasized that Members should not adopt SPS measures with extraterritorial effects, according to the definition established in the SPS Agreement, and invited the European Union to respect the SPS Agreement when establishing MRLs.

3.65. India shared the concerns regarding the extraterritorial application of domestic laws and would continue to monitor the issue closely.

3.66. The [European Union](#) delivered its statement under STC [ID 549](#).

### **3.2.4 EU regulation No 396/2005 setting pesticide MRLs in food and feed of plant and animal origin (ID 549) - Concerns of China and India**

3.67. [China](#) considered that the proposed EU regulation would create an unnecessary *de facto* barrier to international trade with major consequences on WTO Members, especially developing countries exporting food to the European Union. Referring to Article 5.1 of the SPS Agreement, China indicated that a full risk assessment should be considered, taking into account differences in pesticide products, application periods, and treated crops. China complained the measure expanded beyond the scope of protecting bees and suggested adopting MRLs in line with Codex.

3.68. [India](#) requested the European Union to delay the implementation of the regulation's amendments. Specifically, India asked the European Union to reconsider its approach to setting MRLs, review the regulation taking into account WTO rules and Codex recommendations, share the detailed risk assessment and the alternative measures considered, and grant an opportunity to Members to examine the risk assessment and share their comments.

3.69. The [European Union](#) provided a common reply to STC [ID 534](#) and [ID 549](#). The European Union explained that it took into consideration environmental aspects when setting MRLs for substances no longer approved in its territory due to global environmental concerns and reviewed active substances on a case-by-case basis. The European Union affirmed that, based on current knowledge, reducing the use of neonicotinoids was an effective action to tackle the decline of pollinators. Comments received to documents [G/TBT/N/EU/908](#) and [G/SPS/GEN/2054](#) had been reviewed and shared with EU member States, who had endorsed the proposal in September 2022. Regulation (EU) No 2023/334 had been adopted in February 2023 and the application date had been deferred to 36 months after entry into force, until early 2026.

3.70. The European Union clarified that the regulation would not prohibit the use of neonicotinoids by third countries, but products destined to the EU market would have to comply with the MRLs. The European Union considered that it was acting in compliance with its WTO obligations since there was no equally effective and less trade restrictive alternative to protect pollinators. Acknowledging the difficulties third countries might face, import tolerances could be granted for active substances not authorized in the European Union. Referring to the EU intervention under STC [ID 448](#), the European Union clarified it would also look into specific issues raised by different Members, including the incorrect reference to Paraguay in the regulation. The European Union remained available for further discussion.

### **3.2.5 EU Commission proposal for reduction of the current MRL for "nicotine" for imported tea from India (G/SPS/N/EU/581) (ID 550) - Concerns of India**

3.71. [India](#) requested the European Union to reconsider its acute risk exposure calculations given that the methodology used had wrongly assumed nicotine to be a pesticide. India noted that the sample selections for calculating exposure risks for unprocessed tea (dried tea leaves) and processed tea (tea infusions) did not seem to be sufficiently representative, and requested the European Union to share the detailed methodology for determining the threshold residual concentration level of 0.52 mg/kg for nicotine in tea. India further explained that the risk exposure calculations had assumed a 100% transfer of nicotine residues from dry tea leaves to their infusion as a default, which might be erroneous due to insufficiency of supporting data. India requested the European Union to withdraw its MRL revision and comply with the SPS Agreement.

3.72. The [European Union](#) recalled that the temporary nicotine MRLs for teas had been initially set by Regulation (EU) No 812/2011 at 0.6 mg/kg, pending the submission and evaluation of new data and information on the natural occurrence or formation of nicotine in tea products. The temporary MRL had been lowered by Regulation (EU) No 2023/377 to 0.5 mg/kg based on monitoring data, which had demonstrated that such lower levels were achievable as the vast majority of samples were below that level. The European Union followed the principle that MRLs should be set as low as reasonably achievable. Regulation (EU) No 2023/377 had been published in February 2023, with 6-month delay prior to its application to give food business operators the possibility to adapt to the new MRLs.

3.73. The European Union noted that the lowered temporary MRL would have been planned even in the absence of potential health concerns, as monitoring data clearly showed that lower levels were achievable. The European Union noted that EFSA had performed a new acute dietary risk assessment for nicotine in teas, excluding controversial consumption data, and had concluded that the current MRL for nicotine in teas was safe for consumers. The European Commission was therefore in the process of drafting a new regulation allowing for a transitional arrangement for teas produced before the lowered MRLs become applicable in September 2023, as consumer protection was not undermined. The European Union indicated it would continue to review the temporary MRL based on monitoring data and remained open to further contacts with India to provide any information required to clarify this issue.

### **3.2.6 EU restrictions on exports of chocolate and cocoa products due to the application of the Commission Regulation (EU) No 488/2014 of 12 May 2014 amending Regulation (EC) No 1881/2006 as regards maximum levels for cadmium in foodstuff (ID 503) - Concerns of Peru**

3.74. Peru reiterated its concerns regarding Regulation (EU) No 488/2014 establishing maximum levels (MLs) for cadmium in chocolate and other cocoa products that, in practice, had an impact on trade in cocoa beans and cocoa powder. Peru was of the view that the EU regulation violated Articles 2-3 of the SPS Agreement. Considering that the European Union had not taken into account several opinions of the joint FAO/WHO Expert Committee on Food Additives (JECFA) and the Codex Committee on Contaminants in Food, Peru stated the EU levels were more trade restrictive than necessary to protect human health. Peru called upon the European Union to review its legislation, apply international standards and the conclusions reached by JECFA, consider excluding chocolate and other cocoa products from the implementation of the regulation, and continue providing support to Peru to mitigate the presence of cadmium in the production of cocoa. Peru submitted its statement in document [G/SPS/GEN/2122](#).

3.75. Ecuador echoed the previous intervention and invited the European Union to consider the work undertaken in specialized international organizations.

3.76. Noting the lack of new elements since the November 2022 Committee meeting, the European Union emphasized the significant efforts undertaken during the preparation of the relevant regulation to alleviate the difficulties of its trading partners in complying with the legal requirements, namely, (i) the granting of an exceptionally long transitional period for cocoa and chocolate products by deferring the implementation date to 1 January 2019; and (ii) the establishment of MLs on finished products, that did not apply to cocoa beans or other intermediary cocoa products. The European Union explained that the EU risk-based measure was necessary to protect the health of European consumers, and that it took into account the tolerable weekly intake established by EFSA and EU consumption patterns. Reinforcing its right to establish measures to address public health concerns, in line with the SPS Agreement, the European Union further noted that the MLs for chocolate over 50% total dry cocoa solids were in line with the Codex levels agreed in 2018 and that stricter limits had been introduced only to the extent necessary to protect human health. The European Union referred to the targeted projects supporting cocoa products sectors in Colombia, Ecuador, and Peru, and reiterated its commitment to work constructively with Members to address outstanding issues without prejudice to consumer safety.

### **3.2.7 EU review of legislation on veterinary medicinal products (ID 446) - Concerns of the United States**

3.77. The United States reiterated its concerns regarding the implementation of Article 118 of Regulation (EU) No 2019/6. The United States considered the European Union should allow flexibility to trading partners to use official controls and techniques deemed necessary to achieve the same public health objectives. The United States requested the European Union to share its scientific evidence and sought clarification on the EU process for amending and updating its list of antimicrobials as well as on considerations for equivalent regulatory systems. The United States also reiterated its request that the European Commission provide a new timeline for implementation of its measures. The United States submitted its statement in document [G/SPS/GEN/2110](#).

3.78. Reiterating its systemic concern, Paraguay requested the European Union to provide: (i) an update on the state-of-art of the delegated acts and the transition periods established for the

full implementation of Article 118 of Regulation (EU) No 2019/6; (ii) actions envisaged in case of detection of traces of medicinal products reserved for human use in imported meat products; (iii) information on the measuring of medicinal products in meat and the traceability system that would be used; and (iv) the methodology that would be considered and the expected frequency of potential updates to the list of medicinal products.

3.79. Japan regretted that the European Union had not provided information, including the timeline for the implementation of Article 118 of Regulation (EU) No 2019/6. Japan asked the European Union to elaborate the necessary process to be included in the list of approved third countries, provide at least a three-year transitional period before the implementation of the delegated act to third countries, clarify timelines for implementation so third countries can prepare, provide sufficient scientific evidence for the regulation, and avoid discrimination in the implementation of the delegated act.

3.80. Canada expressed its support for the coordinated international efforts to address AMR and appreciation for the information session organized by the European Union. Canada encouraged the European Union to offer additional information sessions prior to finalizing subsequent legislative elements in relation to official certificates and list of pre-approved third countries among others. This would permit third countries to seek clarification and provide time to determine what measures and mechanisms might be required to meet the new requirements. Canada noted its commitment to providing comments on implementing legislation upon notification for consultations.

3.81. Australia thanked the European Union for the briefing session to third countries, confirming that feed additives would not be in the scope of the draft regulations, and clarifying that the draft regulation would not impose new requirements for residue testing of animal products exported to the European Union. Australia reiterated its concerns regarding the proposed 24-month transition time for the implementation acts to be adopted, as it would not provide third countries in such sectors with sufficient time to implement the new rules, especially for animals (like dairy cows) whose production cycle is more than two years. Australia continued to request that the proposed certification requirements not be retroactively applied to animals or product derived from animals and requested clarification on the steps taken by the European Union to minimize additional certification costs on Members.

3.82. Brazil echoed other Members' concerns and noted the potential burden caused by the introduction of trade restrictive requirements. Expressing its support for the international efforts to develop multilateral guidelines on AMR, Brazil urged the European Union to consider ongoing global efforts by the WHO, WOA, and FAO, as well as the work of the Codex AMR taskforce. Brazil reiterated the importance of a safe, harmonized, and science-based framework for trade in animal products for the promotion of food safety and food security.

3.83. Referring to its previous statements in the Committee, Uruguay indicated it had taken note of the draft delegate regulation ([G/SPS/N/EU/605](#)) on the requirements to be met by animals and products of animal origin intended for human consumption. Uruguay was interested in obtaining details on the implementing acts referred to in the draft regulation and called on the European Union to avoid too complex or expensive requirements that could restrict trade more than necessary. Uruguay sought clarification on the extension of the temporary frameworks mentioned in the draft regulation and requested that draft regulations be made available with sufficient advanced notice to provide time to analyse and comment and for these comments to be duly considered.

3.84. The European Union explained that the Regulation on Veterinary Medicines (Regulation (EU) No 2019/6) had entered into force in January 2019 and had begun applying in January 2022. It laid down a wide range of concrete measures to fight AMR and promote the responsible use of antimicrobials, following the approach of the EU One Health Action Plan against AMR. The European Union stressed that its regulations imposed much stricter rules on domestic operators and should not be seen as a barrier to trade. The European Union noted a dedicated webpage had been made available to provide stakeholders with the status of each of the delegated or implementing acts and provided a detailed state of play regarding the preparation of the draft legal acts.

3.85. The European Union explained that Implementing Regulation (EU) No 2022/1255 designated a list of antimicrobials or groups of antimicrobials reserved for treatment of certain infections in

humans, entered into force in February 2023 and would be under continued review. Future updates would be notified to the SPS Committee. The European Union also drew Members' attention to a draft delegated act under Article 118 (rules on imports from third countries), which had been notified with a final date for comments in February 2023. Several Members had made comments, which had been replied to and a subsequent information session had been held. The draft regulation had been adopted and was expected to be published in the Official Journal before summer. The European Union assured Members that meetings would be organized with third countries, and that it was committed to working on a framework that delivered on the objective of addressing AMR while minimising impacts on trade.

### **3.2.8 India's Draft Food Safety and Standards (Import) Amendment Regulation (ID 553) - Concerns of the European Union**

3.86. Referring to its previous statements regarding India's import requirements related to the registration of foreign food manufacturing facilities, the European Union thanked India for clarifying its questions regarding the Order of October 2022 of the Food Safety and Standards Authority of India (FSSAI) and for postponing the entry into force of the new requirements to February 2023. However, the European Union noted that several food manufacturing facilities had not been registered in the online system, with no written reply from India to inquiries. The European Union expressed concerns regarding the listing or delisting of facilities and different authorities regulating imports of the same products. Among others, the European Union requested India to clarify the modalities related to audits and inspections of facilities, border checks and health certificates, provide written and update guidance to the exporting countries and companies on how they should register facilities, and avoid a duplication of certificates for the same product. The European Union also repeated its request for this measure to be notified in both the SPS and TBT Committees.

3.87. Japan noted that the final date for comments for India's TBT notification was set to the middle of January 2023, with the date of adoption and entry into force as 1 February 2023. This would not have allowed for sufficient time to consider any comments put forward before implementation. Japan submitted lists of food manufacturing facilities, but India had not yet registered some of the facilities on the list. Japan requested India to suspend the implementation of the Order to allow time for adaptation while allowing imports of designated food products without registration of the facilities, specify the HS codes for the designated food categories subject to the Order, clarify the details on how to apply for the registration of foreign food manufacturing facilities, and respond to the unanswered questions from Japan within a reasonable time.

3.88. Having raised the concern at the TBT Committee, Canada stressed that India's measure also contained SPS elements and could create unnecessary barriers to trade. The criteria used to determine the level of risk for imported food products and the circumstances that would instigate an audit remained unclear. Canada urged India to respond to its request for information submitted to the enquiry point, and to notify this measure to the SPS Committee. While it was still awaiting India's response to written questions and comments, Canada thanked India for the prompt registration of Canada's food manufacturing facilities and the publication of the list of establishments. Canada remained concerned with the measure's criteria to determine risk, auditing protocols, target commodities, source-countries, implementation plan, audit rates, compliance actions, and appeals.

3.89. India explained that the FSSAI was the statutory body responsible for regulating all aspects of the food industry. The 2021 Food Safety and Standards (Import) Amendment Regulations provided the legal framework for the registration and inspection of foreign food manufacturing facilities. The FSSAI had addressed the comments by notifying the need for the competent authorities of the exporting countries to provide information to register food manufacturing facilities falling under certain categories of food products, as well as information on manufacturers willing to export such products to India. India emphasized that the practice of listing and registration of foreign establishments, also prevalent in other Members, reduced inspection and clearance times and ensured the quality and safety of food products. India further indicated that the safety measures taken to ensure food safety for the listed products had already been notified in the SPS and TBT Committees, and since this was a certificate with no additional safety measures related to the products, it had not been notified in WTO SPS platform.

### **3.2.9 China's actions related to COVID-19 that affect trade in food and agricultural products (ID 487) - Concerns of Australia, Japan and the European Union**

3.90. Australia indicated that it was grateful to have received advice from the General Administration of Customs China (GACC) in February 2023, acknowledging the need to strengthen communication and cooperation around food safety and reaffirming that China's COVID-19 related measures had been removed. Australia welcomed China's removal of the requirements to test imported products and packaging for COVID-19 genetic material and sought clarification on when China would remove outstanding COVID-19 related suspensions. While Australia appreciated China's removal of the suspension imposed on an Australian dairy establishment, three Australian meat establishments remained suspended. Australia requested that these suspensions be lifted.

3.91. Japan welcomed that measures had been lifted in January, but raised concerns on continued suspensions. Japan indicated that, in 2020, two facilities had their imports suspended due to online audits unrelated to the detection of COVID-19 in export cargoes. These two facilities had immediately undertaken corrective actions, but import suspensions had continued for two years without scientific or risk-based justification. Given that the measures had been lifted, Japan urged China to reinstate these facilities and requested clarification on the food safety concerns that justified the continued import suspensions.

3.92. The European Union welcomed the announcement made in December 2022, which had led to the lifting of China's COVID-19 related measures on food imports as of February 2023, but noted that there were still export establishments that could not export to China due to COVID-19 related ongoing suspensions. The European Union urged China to lift all suspensions immediately, and to clarify whether future audits to EU export establishments would contain COVID-19 requirements.

3.93. China noted that, since July 2022, GACC Announcement No 103 of 2020 had been repealed and it had no longer taken emergency preventive measures to suspend import declaration for goods with the positive nucleic acid of COVID-19 virus for 1-4 weeks. As of January 2023, the GACC had cancelled the preventive measures related to COVID-19 on cold-chain food and agricultural products at the port, and China had resumed the import declarations from more than 100 companies, including from India, the United Kingdom, and other Members. In 2022, China had imported 1.57 trillion yuan of agricultural products, an increase of 10.8% year-on-year; imported food reached 1.39 trillion yuan, up 10.4% year-on-year, effectively maintaining the overall stability of trade.

### **3.2.10 China's administrative measures for registration of overseas manufacturers of imported food (26 November 2019) (ID 485) - Concerns of Australia, the European Union, the United States and Japan**

3.94. Australia acknowledged the difficulties China had in the implementation of its CIFER system in the context of the implementation of China's Decree 248 and appreciated cooperation with the GACC to mitigate the risk of trade disruption throughout the process of establishment registration extensions. However, Australia remained concerned about timeframes, lack of clear and timely advice from the GACC, and delays in registration of new and existing Australian food businesses. Australia encouraged China to allow for reasonable timeframes for application submission and adjustment in the CIFER system, notify competent authorities of updates to the system, provide clear and timely advice on any changes to HS codes, provide appropriate guidance to all affected entities on meeting requirements, ensure continuity of trade until CIFER IT system issues are resolved, and provide equal opportunity for all food businesses registered in CIFER to access their accounts in CIFER and apply for modifications and registration extensions.

3.95. The European Union expressed its continued concern regarding the process of implementation of China's Decree 248, which it considered to be burdensome and not transparent. The European Union noted applicants faced many issues during the registration process, and was concerned with the upcoming deadline of June 2023 for existing registrations. The European Union indicated that it was unlikely registrations would be completed for all establishments given technical issues and given recent issues faced regarding renewals, modification, and extension procedures. The European Union requested China to resolve these technical issues, facilitate amendment/correction of existing registrations, extend the June 2023 deadline for existing registrations, and simplify the renewal process.

3.96. The United States reiterated its concern regarding China's lack of response to requests for scientific justification and sought clarification on how the measures established in Decrees 248 and 249 would address food safety and public health concerns. The United States urged China to provide the risk assessments that informed the development of these Decrees. The United States stressed the confusion and trade disruption caused by the lack of guidance and the inconsistent implementation of measures and indicated that all facilities should be able to self-register. The United States considered the GACC's deadline of June 2023 for registration of all firms to be unrealistic, and requested suspension of this deadline until concerns were addressed. The United States submitted its statement in document [G/SPS/GEN/2113](#).

3.97. Japan echoed the concerns expressed by other Members on China's implementation of Decree 248 and its obligations under the SPS Agreement. Japan remained concerned regarding issues associated with the CIFER system, including the lack transparency, burdensome requirements, uncertain procedures, and lack of predictability. Japan requested China to provide a scientific justification of its new measures including the results of risk assessments, notify any change in the operation of the CIFER system with a reasonable transition period, allow previously registered facilities to export any items regardless of the registered product codes until 30 June 2023, add all missing product codes to the system, provide clear explanations as to when an application would be rejected; establish an enquiry point for interested parties, hold an information session in Geneva, and respond to unanswered questions within a reasonable time.

3.98. Norway shared concerns expressed by other Members and considered that Chinese Decrees 248 and 249 were more trade restrictive than necessary to ensure the safety of imported food products. Norway underscored the significant burden facing its national seafood industry and the Norwegian Food Safety Authority as a result of the amount of information and documentation required to register establishments in CIFER, changes to the system after implementation, lack of guidance, and technical errors that caused delays in registration. In order to facilitate trade and reduce disruptions, Norway asked China to review its measures and apply them in a manner that was not more trade restrictive than necessary to achieve its ALOP.

3.99. Uganda expressed concern regarding the process for submission, delayed approval procedures, and lack of communication from the GACC. Uganda indicated that the lack of support to register food operators and businesses was burdensome and not transparent, and the approval procedures were uncertain. Uganda requested a dedicated channel for competent authorities to address their concerns and to provide technical assistance dealing with challenges associated with the system.

3.100. Referring to its interventions in previous Committee meetings, Chinese Taipei stressed that the lack of information on registration requirements, operational guidance, and updates on the stages of the procedures complicated the implementation of the measures. Chinese Taipei questioned the alignment of the measures with the SPS Agreement, and noted the significant burdens placed on facilities and competent authorities. Chinese Taipei also noted the lack of responses to the request for the scientific justification of the measures and the additional burden to facilities related to ambiguity in HS codes and customs clearance suspensions. Chinese Taipei urged China to designate an enquiry point to address concerns surrounding the measures, provide a grace period for their implementation, temporarily allow entry of all products from registered facilities, and hold an information session on the implementation of the measures.

3.101. Acknowledging the recent discussions and past interventions, the United Kingdom reiterated that the requirements imposed by the GACC that all overseas establishments producing medium-risk and low-risk products be registered in the CIFER system was unduly burdensome and did not seem to be supported by appropriate scientific justification. While welcoming China's decision to remove the requirement for submission of a checklist for modification and extension applications of overseas meat, fish and dairy establishments producing high-risk products, the United Kingdom requested China to apply its measures in a risk-proportionate manner, considering the rigorous UK food safety processes and controls.

3.102. Reiterating its concerns, Korea noted that certain aspects of China's regulation, such as those related to low-risk products, the lengthy registration procedures, and the lack of explanations for rejections, were unnecessarily burdensome. Korea requested China to change the registration requirements to facilities, not product categories, and approve the export of all products for facilities that were already registered based on previously reviewed data. Korea reminded China of the



obligation to adopt SPS measures based on science and in a transparent manner and invited China to reply to its request and suggestions.

3.103. Peru expressed concern regarding China's Decree 248 owing to the complexity of the registration process in the CIFER system. Peru had requests from last year that had not been addressed by the health authorities of China. Peru noted there were delays in the procedure and that sufficient information was not provided when an application was rejected. Peru requested transparency in exchanges and clear information from the Chinese authorities.

3.104. China indicated that the revision of the draft Administrative Measures for Registration of Overseas Manufacturers of Imported Foods was based on domestic law and was compliant with international rules and common practices. China explained that the measures strengthened the supervision of food safety while taking trade facilitation principles into account. Before the implementation of the regulations, the GACC had issued the interpretation of the regulations and the guide and supporting documents for registration applications, had launched the online registration system for overseas enterprises, and had formally notified exporting Members through various channels. As of 17 February 2023, more than 100 Members had provided the list of enterprises recommended for registration, and a total of 82,000 overseas producers had been registered. China underlined the effectiveness of the implementation of its measure and invited Members to contact the GACC for registration queries and technical support.

### **3.2.11 China's delay in approving requests for new listing and reinstatement of export establishments (ID 516) - Concerns of Australia and Canada**

3.105. Recalling that SPS control, inspection and approval activities should be timely and no less favourable than those undertaken for domestic circumstances, Australia requested China to provide timeframes and pathways for the assessment and approval of establishment registrations and their products, the updating of administrative listings, and the removal of restrictions and suspensions on establishments and products. Australia noted the absence of justification provided by China for not having updated those lists, notably regarding a number of Australian meat establishments and seafood exporters. Australia also pointed out China's non-adherence to the SPS Agreement, referring to the non-timely updating of administrative listing and finalization of establishment approval. Australia indicated that it would welcome engagement with China to ensure that registration requirements did not unnecessarily disrupt trade and that the registration of businesses and products were not delayed.

3.106. Referring to its statements at previous Committee meetings, Canada explained it continued to experience undue delays in China's approval procedures for the importation of food products and foreign establishments. Canada was awaiting updated information on the lists of Canadian products and facilities eligible to export. Canada was pleased that a number of dairy, fish, and seafood and other medium-risk commodity establishments had been recently approved in China's Import Food Enterprise Registration (CIFER) system, but noted that this was not the case for a number of other market access requests. Canada lamented that undue delays and lack of transparency and of rationale in the procedures led to unjustified barriers to trade and administrative burdens. Canada urged China to update and publish the lists of Canadian products and establishments awaiting registration or approval, provide timelines for approvals, share the results of approval procedures, and respect its obligations under the SPS Agreement.

3.107. The United Kingdom welcomed China's recent decision to lift its suspension against four UK fish exporters and a dairy establishment, but reiterated its request that China prioritise the review of the suspension of three UK pork establishments and confirm additional requirements for reinstatement. The United Kingdom remained unclear on criteria and timeframes to facilitate a resolution. Noting the issues faced by 20 pork, 47 fisheries, and 94 dairy establishments regarding modification and extension applications (all with approaching deadlines), the United Kingdom urged China to apply its approval procedures in a timely, predictable, and transparent manner and limit requests to what was reasonable and necessary, in accordance with the SPS Agreement.

3.108. China clarified that it handled market access for meat and aquatic products and enterprise registration in accordance with domestic laws and regulations, and only products that met the requirements upon evaluation could be exported to China. China's measures were in line with bilateral agreements and the SPS Agreement, and China had informed the competent authorities of

the exporting Members of the non-compliance problems it had found in their export enterprises. China indicated that when these issues were corrected and notified, Chinese experts would carry out the evaluation, on the basis of which China would decide whether to adjust related actions.

### **3.2.12 Saudi Arabia's temporary suspension of Brazilian poultry exporting establishments (ID 486) - Concerns of Brazil**

3.109. Brazil regretted that Saudi Arabia had not provided supporting documentation regarding the ongoing suspension of Brazilian exports. In Brazil's view, Saudi Arabia was not respecting Articles 2 and 5 of the SPS Agreement. In 2022, Saudi Arabia had authorized the resumption of imports from 6 of 13 suspended establishments, but the suspensions had not been formally withdrawn. These Brazilian establishments remained "partially suspended" and other establishments formally suspended. Brazil requested Saudi Arabia to clarify what type of sanitary issue could motivate the suspension of establishments while allowing imports and consumption of Brazilian poultry in Saudi Arabia. Brazil further enquired what was the legal basis for and meaning of partial suspensions.

3.110. Assuring it spared no efforts in removing trade barriers, Saudi Arabia indicated that the temporary measures at issue had been adopted in compliance with the SPS Agreement to ensure food safety and the protection of human health. Following bilateral engagement, the Saudi Food and Drug Authority (SFDA) had lifted suspension on a number of Brazilian poultry establishments that had taken certain measures to ensure food safety. The SFDA was currently reviewing corrective actions taken by other Brazilian establishments and looked forward to receiving information on other corrective actions. Saudi Arabia reaffirmed its commitment to transparency towards WTO Members.

### **3.2.13 Panama's undue delays in the renewal of authorizations for plants of fishery and livestock enterprises (ID 509) - Concerns of Peru**

3.111. Temporarily putting aside poultry plants, Peru reiterated its concerns that Panama's requests for additional information and undue delays violated Article 8 and Annex C to the SPS Agreement, and regretted the lack of information regarding the anticipated processing period and timeline for the renewal of authorizations of Peruvian enterprises. Peru also complained about the lack of responses to the communications submitted, including a request for a meeting of the Peru-Panama Free Trade Agreement Administrative Commission. Peru noted that Panama had not indicated the sanitary reasons for not renewing the authorizations or granting new authorizations to Peruvian enterprises, in violation of Articles 2.2 and 5.1 of the SPS Agreement. Peru asked Panama to renew the authorizations of Peruvian export plants and avoid further delays. Peru submitted its statement in document [G/SPS/GEN/2118](#).

3.112. Costa Rica was of the view that Panama's regulatory practices totally restricted access of agricultural products to the Panamanian market and regretted the lack of information and lack of amendments to the measures. Costa Rica asked Panama to take into consideration Members' concerns regarding inadequate implementation of SPS measures and failure to comply with the SPS Agreement.

3.113. The European Union reported that exchanges with Panama had resulted in the approval of some establishments and that clarifications on the procedures to follow for the approval of establishments had been provided. The European Union continued to follow the issue with interest and hoped to continue bilateral consultations.

3.114. Panama continued to review the documents provided by Peru and recalled that the concern was being addressed bilaterally through a technical commission. Panama reiterated its willingness to mutually satisfactory solutions.

### **3.2.14 Bolivia's import restrictions on agricultural and fisheries products (ID 530) - Concerns of Peru**

3.115. Peru stated that Bolivia's measures blocked market access for Peruvian exports of whole trout without scientific justification. Despite the approval of the health certificate in 2017, Bolivia had not yet complied with the corresponding commitments to allow imports. In January 2022, Bolivia had indicated that its current regulations allowed for the marketing of eviscerated animals only. Peru was

still awaiting a response to the requests for information submitted as well as an official invitation for an in-person meeting to resolve the issue. In Peru's view, Bolivia's measures contravened the provisions of Article XI of the GATT 1994, as well as Articles 2-3, 5, and 7-8 and Annexes B and C to the SPS Agreement. Peru asked Bolivia to lift its restrictions. Peru submitted its statement in document [G/SPS/GEN/2119](#).

3.116. Bolivia stated that its health requirements for imports of trout were in line with the guidelines established by Codex and FAO to ensure safety. Affirming its measures did not establish arbitrary discriminations, Bolivia indicated that the technical problems faced had been addressed in bilateral meetings and that, if needed, they would continue to be addressed by its sanitary authorities. Bolivia reiterated its willingness to maintain an open and transparent dialogue with Peru.

### **3.2.15 India's Order related to requirement of health certificate accompanied with imported food consignment of milk, pork, fish and related products (ID 554) - Concerns of the European Union**

3.117. The European Union raised its concerns regarding an order issued by the Food Safety and Standards Authority of India (FSSAI) covering health certificates for imported milk, pork, fish, and related products, notified to the TBT Committee. The European Union thanked India for a recent information session and for providing the list of HS codes associated with the products covered by the health certificates. The European Union further welcomed the recently announced postponement of the entry into force of the health certificates until further notice. While the new health certificates for milk and milk products had been merged in March 2023, pork and fish products were still subject to two certificates issued by different authorities. The European Union requested India to avoid the duplication of SPS measures and notify any modalities relating to the application of the health certificates to the SPS and TBT Committees.

3.118. Japan noted that, as per India's TBT notification, the date of adoption and entry into force of FSSAI's order had been initially set merely two weeks after the deadline to submit comments. While appreciating India's decision to extend the order's implementation date, Japan highlighted the need for India to provide a proper transition period for exporting Members to adapt their systems to the new health certificates. Japan further noted that, if one of the objectives of FSSAI's order was to ensure food safety, India needed to notify the order under the SPS Agreement.

3.119. Canada welcomed India's recent decision to delay the implementation of the new certification requirements until further notice but reiterated its concerns with a number of new FSSAI requirements. Canada encouraged India to streamline its certification requirements, have a single integrated certificate incorporating food safety related requirements and attestations accepted by FSSAI, and base requirements on international standards. In addition, Canada recalled the need to provide sufficient time for trading partners to adapt and requested India to notify these new requirements to the SPS Committee.

3.120. Norway thanked India for postponing the entry into force of the three health certificates for fish, pork, and dairy. Soon thereafter, Norway had however received a notice of a new certificate for dairy products. Norway emphasized the importance for competent authorities of having sufficient time to adapt to new measures and, in this context, requested India to notify further new health certificates to the SPS Committee. Norway also requested India to avoid duplication of SPS measures. Norway expressed concerns about importing countries requiring fulfilment of national legislation which would require extensive equivalence comparison, duplication of requirements, and additional cost and bureaucracy. Norway requested India to delay further the implementation to allow trading partners to revise existing certificates in order to incorporate the consolidated import requirements.

3.121. India indicated that the export certificate requirement for categories of food products was mandatory as per domestic regulation. The requirement of a health certificate was a pre-import requirement in the form of an assurance provided by the competent authorities of exporting countries that the food products complied with safety requirements. India further informed that, following notification in the TBT Committee, it had received comments and concerns regarding the number of certificates and the extension for implementation. Considering these comments, India had deferred the requirement until further order.

### **3.2.16 EU delays in authorizing imports of Samgyetang (Korean ginseng chicken soup) (ID 526) - Concerns of Korea**

3.122. Korea reiterated concerns about import approval delays imposed by the European Union on Korean chicken soup Samgyetang. Korea indicated that, since 1996, it had coordinated on-site inspections for the approval of its National Residue Program (NRP) and had submitted supporting documents, as requested. Despite the lack of notable progress in the authorization procedure, Korea had continued and would continue to submit NRP results. At the 11<sup>th</sup> EU-Korea Free Trade Agreement Committee on SPS measures of November 2022, the European Union had explained that it was at the final reviewing stage, and Korea had requested the European Union to swiftly proceed with the remaining import approval procedures.

3.123. The European Union explained that it followed the usual steps of approval procedures. The European Union would inform Korea as soon as the procedure granting market access for Samgyetang soup was finalized, including the last administrative steps.

### **3.2.17 EU Regulations 2021/405 and 2017/185 on vitamin D3 (ID 551) - Concerns of China**

3.124. China reported that, since 2002, shipments of lanolin-derived vitamin D3 for feed additives use exported to the European Union had been blocked at the border of Belgium and Germany on the ground that it was considered to be of animal origin, not compliant with Commission Decision 2002/994/EC. Yet, in the last 20 years since the enactment of that Commission Decision, the European Union had imported lanolin-derived vitamin D3 for feed use originating from China. China further referred to Regulation (EU) No 2022/887, which made clear that there was no public health concern related to the importation of such product. China requested the European Union to take appropriate measures to resume trade of vitamin D3 with China as soon as possible.

3.125. The European Union explained that vitamin D was considered to be a product of animal origin as it derived from lanolin of sheep wool and that Vitamin D3 could be exported as a food supplement. The European Union indicated that it would look into the particular complaint raised by China.

### **3.2.18 EU increased sampling frequency for inspection of farmed shrimps and newly listed fishery establishments not permitted to export aquaculture products (ID 552) - Concerns of India**

3.126. India reiterated its concerns about the increased level of sampling and testing on imports for farmed shrimps despite India's remarkable reduction in antibiotic rejections in farmed shrimps exported to the European Union (one rejection in 2022 and no rejection in 2023 thus far). India requested the European Union to bring down the sampling and testing frequency to the previous level of 10% and to list all the delisted units and permit newly listed units to export farmed shrimps to the European Union.

3.127. Acknowledging significant progress since the previous audit, the European Union explained that a high level of non-compliant results for prohibited antimicrobials were still detected in the Indian-initiated pre-harvest testing programme in hatcheries and in the mandatory pre-export testing programme (94 consignments had been tested as non-compliant and destroyed in India). An audit had also concluded that follow-up investigations and measures to dissuade illegal use had scope for improvement and that the testing regimes operating in India remained necessary. The European Union had recently received India's response to the audit findings and was assessing India's proposed actions to deal with the audit recommendations.

### **3.2.19 General import restrictions due to BSE (ID 193) - Concerns of the European Union**

3.128. The European Union recalled import bans and delays in the approval procedures of some Members, in particular Australia, Brazil, China, Ecuador, Egypt, Jordan, South Korea, Malaysia, Mexico, Peru, South Africa, Chinese Taipei, and the United States, which it considered to be inconsistent with Article 8 and Annex C to the SPS Agreement. The European Union urged those Members to comply with the SPS Agreement, apply international standards, lift remaining BSE-related restrictions, engage in the finalization of the risk assessment on the pending market access requests, and conclude the administrative steps to lift the bans.

3.129. The United States considered that the current concerns related to an equivalence administrative process, not animal health. To resume exporting bovine meat products for human consumption, EU member States needed to obtain an equivalence determination by the US Department of Agriculture Food Safety and Inspection Service (FSIS). FSIS was working through its equivalence process and remained available for technical engagements with EU member States.

3.130. Switzerland supported this concern. For example, although Switzerland had been recognized by WOAHP as having negligible BSE risk for more than one and a half decades, it continued to be on China's list of animals and their products prohibited from being imported from countries where animal diseases are endemic. Switzerland urged trading partners to lift remaining import restrictions due to BSE and allow imports of beef products from Switzerland.

3.131. China expressed concerns about BSE outbreaks in EU member States and reported that it had been conducting technical exchanges and cooperation with the European Union to solve relevant technical issues. With varying BSE conditions and levels of animal health prevention in EU member States, China needed to conduct risk assessments on a case-by-case basis based on the application.

### **3.2.20 EU recognition of Mexico as a country with WOAHP negligible BSE risk (ID 543) - Concerns of Mexico**

3.132. Mexico regretted that the European Union had not accommodated its repeated request to recognize its BSE negligible risk status, granted by WOAHP in 2016. Mexico noted that other Members who had obtained the recognition from WOAHP subsequent to Mexico had already been included in EU Decision 2007/453/CE. Mexico expressed its disagreement with the request made by the European Union to undertake analysis of Mexico's specific requirements to import beef with regards to BSE, to be followed by a technical meeting on the basis that EU member States experienced difficulties to export such goods to Mexico. In Mexico's view, this analysis implied that the European Union did not recognize the sanitary status granted by WOAHP. Noting that it accepted the sanitary status granted by WOAHP to EU member States, Mexico objected that there was no scientific justification for the EU delay, which was restricting trade in products of interest. Mexico requested to be included in EU Decision 2007/453/EC and asked for an official response to the communications sent since 2017.

3.133. The European Union informed the Committee that it had taken note of Mexico's status and that it was considering the request. The European Union had provided an answer to Mexico's communications, and the issue was being discussed bilaterally in the framework of the EU-Mexico Economic Partnership, Political Coordination and Cooperation Agreement. The European Union looked forward to continuing the discussion with Mexico.

### **3.2.21 Korea's lack of progress on pending applications for authorization of beef imports (ID 490) - Concerns of the European Union**

3.134. The European Union reiterated its concern relating to unjustified delays in market access for bovine products. While welcoming the reopening of Korea's markets for imports of bovine products from two EU member States in 2019, the European Union emphasized that identical food safety and animal health control conditions prevailed in all EU member States. The European Union urged Korea to comply with the SPS Agreement, in particular its Article 3.2, recalling that several EU member States had market access applications pending, some of which for more than 15 years. The European Union viewed Korea's assessment procedure as overly lengthy and burdensome, and hoped that Korea would solve this issue.

3.135. The Russian Federation regretted that Korea had not authorized beef imports from any Russian region, even though, in 2019, the Russian Federation had provided the necessary information on the regions and zones recognized by WOAHP as FMD free without vaccination. In May 2022, Korea had also been informed of the Russian Federation's WOAHP status as a country having a controlled BSE risk. In October 2019, the beginning of the risk assessment process for beef imports from the Russian Federation had been announced, and, in March 2022, additional information had been provided to Korea for three Russian regions. Yet, no answer had been received thus far and Korea had not authorized beef imports from any Russian region. Expressing its readiness

for bilateral cooperation, Russia urged Korea to comply with its obligations under Articles 6 and 8 of the SPS Agreement and finalize the market access procedures without undue delay.

3.136. Korea indicated that it allowed imports without discrimination based on risk and sanitary assessments in line with the SPS Agreement, WOH, and Codex standards. Korea recalled that beef imports from the Netherlands and Denmark had been approved and the procedure for the regionalization recognition for ASF and AI in the European Union had been finalized in September 2022. Korea was ready to enhance cooperation with the European Union to achieve progress in the import approval process for EU beef. Korea further reported that it was conducting a risk assessment for beef products from the three Russian regions declared as FMD free without vaccination. Korea's quarantine authority was reviewing answers submitted by the Russian Federation and would reply as soon as possible.

### **3.2.22 South Africa's import restrictions on poultry due to highly pathogenic avian influenza (ID 431) - Concerns of the European Union**

3.137. The European Union regretted that South Africa maintained country-wide bans on poultry products from 17 EU member States following historic HPAI outbreaks. These measures remained in place even though WOH stamping out requirements were strictly applied, several EU member States had been free from HPAI for many months, and many tons of poultry meat and by-products crossed intra-EU borders every day with no records of HPAI outbreaks. The European Union considered the measures to be at odds with Article 6 of the SPS Agreement and called on South Africa to apply the regionalization principle and allow trade from disease-free areas.

3.138. South Africa responded that it had bans in place following several HPAI outbreaks in the European Union. South Africa continued to engage with the European Union, referring to a meeting in November 2022 where they had agreed to the facilitation of a discussion on regionalization. South Africa was awaiting an EU proposal to take these discussions further.

### **3.2.23 China's import restrictions due to highly pathogenic avian influenza (ID 406) - Concerns of the European Union**

3.139. The European Union informed the Committee that China continued to maintain country-wide bans on several EU member States on account of HPAI. The European Union had repeatedly requested China to lift these import restrictions. The European Union requested China to apply the SPS Agreement and relevant WOH standards to allow trade from disease-free areas. The European Union further noted that technical exchanges on zoning and HPAI had recently been initiated and urged China to further engage with the European Union to resolve this concern.

3.140. China noted that HPAI continued to occur in the European Union, with cross-species outbreaks in mink farms. China suspended the importation of live poultry and related products from the EU member States with HPAI outbreaks in accordance with relevant regulations and international rules. Acknowledging positive results achieved by EU member States in prevention and control, China requested the European Union to keep it informed of further progress so that it could evaluate the effectiveness of the progress and adjust its measures.

### **3.2.24 China's import restrictions due to African swine fever (ID 392) - Concerns of the European Union**

3.141. The European Union expressed concerns regarding China's ASF-related country-wide import bans on pork products, including from EU member States that had long eradicated the disease in livestock and wildlife. Since 2015, when the concern had been first raised, China had expanded the trade bans, despite China having the same sanitary status. The European Union called on China to respect the SPS Agreement and WOH standards and allow trade from disease-free areas. Noting recent technical exchanges on zoning, the European Union hoped for a successful conclusion.

3.142. China noted that, following WOH rules, there had been good cooperation with EU member States, such as France and Germany, on ASF regionalization. China expressed its willingness to carry out exchanges and cooperation at the technical level with EU member States to explore how to improve ASF regional management.

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### **3.2.25 Peru's non-application of regionalization for African swine fever (ID 544) - Concerns of the European Union**

3.143. The European Union expressed concerns about Peru's country-wide import bans imposed on EU pork products from member States that reported outbreaks of ASF. The European Union urged Peru to respect its international obligations and allow trade from disease-free areas, and to engage in solution-oriented exchanges.

3.144. Emphasizing that it was respectful of the principle of regionalization of the SPS Agreement, Peru indicated it had duly provided information on the legislation applicable to a country that was experiencing or had experienced outbreaks of diseases not recognized in its territory. Peru reiterated its willingness to continue the ongoing bilateral work with the European Union.

### **3.2.26 Chinese Taipei's import restrictions on poultry and beef (ID 521) - Concerns of Brazil**

3.145. Brazil raised concerns regarding export restrictions on poultry and beef, which Brazil believed failed to comply with Articles 5 and 8, as well as Annex C to the SPS Agreement. To Brazil, this STC showcased an example of the issues debated in the Working Group on Approval Procedures, namely, the lack of predictability regarding the duration of approval procedures and the benefits of anticipating processing periods. Brazil asked for a time estimate for the analysis of the latest documents it had provided, the stages of relevant approval procedures, and a date for an audit mission to Brazil. Brazil submitted its statement in document [G/SPS/GEN/2115](#).

3.146. Chinese Taipei reminded the Committee that it had recognized Brazil as being free from HPAI, but not Newcastle disease. If Brazil had the intention to resume the application for Newcastle disease-free approval, Chinese Taipei requested Brazil to conduct active surveillance and relevant measures in accordance with WOAHP guidelines and submit necessary supplementary information. Chinese Taipei further provided details about the status of market access applications and informed that the latest set of documents was being reviewed and results would be communicated upon completion of that review. Chinese Taipei had also requested Brazil to submit supplemental documents. Following the completion of the review, an on-site audit would be set up. Finally, Chinese Taipei reiterated that its measures were transparent, based on scientific principles, and implemented without undue delay.

### **3.2.27 The Philippines' trade restrictions on imports of meat (ID 466) - Concerns of the European Union and the Russian Federation**

3.147. The European Union reiterated that the Philippines maintained country-wide bans on imports of meat and meat products from EU member States on grounds of ASF and HPAI. The European Union indicated that several EU member States remained subject to country-wide import bans on pork meat or poultry meat inconsistently with Articles 2.2 and 6 of the SPS Agreement. The European Union had provided the necessary evidence demonstrating the effectiveness of disease control measures. The European Union called on the Philippines to respect its international obligations and allow trade from disease-free zones.

3.148. The Russian Federation expressed concern regarding the Philippines' restrictions on imports of Russian beef and pork. Noting that exports to the Philippines required WOAHP recognition of a disease free-status for FMD, ASF, and lumpy skin disease, as well as low-risk status for BSE, the Russian Federation informed that it had submitted information on the domestic epizootic situation for the diseases at issue, as well as on relevant measures. The Russian Federation reminded of its WHOA status of country with FMD free zones and of BSE-free country. Expressing its readiness for bilateral cooperation, the Russian Federation urged the Philippines to comply with Articles 6 and 8 as well as Annex C to the SPS Agreement, recognize regionalization, and accelerate the market access process.

3.149. Regarding the EU concern, the Philippines noted that the measures imposed were provisional and precautionary, subject to regular review on the basis of available scientific information in accordance with Article 5 of the SPS Agreement. The Philippines was working with various EU member States bilaterally regarding the application for regionalization with respect to HPAI. Regarding the Russian Federation's concern, the Philippines continued to address the market access

request bilaterally and was working with the Russian Federation regarding the application for regionalization with respect to HPAI.

### **3.2.28 Nigeria's import restrictions on meat, pork, poultry, milk and dairy products, genetic material and live cattle (ID 523) - Concerns of Brazil**

3.150. Brazil regretted the lack of responses from Nigeria regarding proposals for sanitary certifications for certain products and lack of information regarding requirements for exporting dry bovine skin. Noting Nigeria's statement in a previous Committee meeting that import restrictions were due to economic reasons, Brazil emphasized that its request concerned lack of responses to sanitary certificate proposals and, therefore, fell within the scope of the SPS Committee. Brazil submitted its statement in document [G/SPS/GEN/2116](#).

3.151. Nigeria reiterated that the import restrictions at issue were not SPS related, but were to address Nigeria's economic difficulties, balance of payments and national security difficulties. This is why the issue was being discussed in the Committee on Agriculture and the CTG, as the appropriate fora. Nigeria requested Brazil to identify the measure at issue and how this measure fell within the scope of SPS Agreement. In addition, given that the import restrictions were not based on issues related to SPS certificates, Nigeria queried how there could be a violation of Articles 2, 5, and 7-8, as well as Annex C to the SPS Agreement, as Brazil had stated in a previous Committee meeting. While maintaining that the SPS Agreement was not the appropriate forum for this concern, Nigeria indicated that its authorities were considering Brazil's proposal of a draft sanitary certificate.

3.152. Brazil took note that Nigerian authorities were analysing its proposals for sanitary certificates, which Brazil reiterated were issues within the scope of the SPS Committee. Brazil also emphasized that it was raising concerns about transparency, avoiding undue delays, and the timely analysis of proposals, all of which related to SPS approval procedures. Brazil stood ready to continue the bilateral dialogue with Nigeria.

### **3.2.29 Qatar's new import rules for dairy products (ID 529) - Concerns of the European Union**

3.153. The European Union regretted that, despite continued dialogue, Qatar continued to maintain import measures affecting several dairy products exported from the European Union. One of the EU main concerns was the short shelf-life imposed for several dairy products, which the European Union considered not to be based on science or international standards. In practice, this made it impossible for EU exporters to continue to ship some dairy products to Qatar and favoured Qatari producers. The European Union reiterated its request to Qatar to withdraw its trade restrictions and adopt a permanent solution in line with WTO rules to be notified at a draft stage to the Committee.

3.154. Qatar informed the Committee of the ongoing dialogue with the European Union, referring in particular to an EU-Qatar workshop in February 2023. Qatar underscored that the relevant measures were not discriminatory since they applied equally to domestic and imported products, did not impact trade more than necessary to contribute to the fulfilment of the legitimate objective of protecting consumers, and did not prevent the importation and sale of any products that met its quality standards. Qatar remained available to continue the constructive discussion with Members.

### **3.2.30 Thailand's sanitary requirements on wet blue leather imports (ID 539) - Concerns of Brazil**

3.155. Reiterating its concern regarding the export of wet blue leather to Thailand, Brazil indicated that it was putting forward a proposal to avoid the adoption of unnecessary requirements while respecting Thai domestic legislation and the SPS Agreement. Wet blue leather was not like raw, dried, or salted leather since the transformation of collagen into rot-proof fibres prevented the development and survival of etiologic agents of diseases affecting animals or humans. Brazil suggested that Thailand consider the possibility of relying on Article 8.8.27 of the WOHAT Terrestrial Code to remove its requirement without the need of further amendments of its domestic legislation. In this context, Brazil asked Thailand to consider if amending its legislation was necessary given that wet blue leather was different from the types of leather addressed in its domestic regulation; if it could be deemed that no sanitary certificate was in fact required for this product,



and that there was an international standard, as a means to authorize Brazilian exports; and how much time would be needed to conclude its approval procedure.

3.156. Thailand indicated that it took into account the principles under the SPS Agreement and relevant international standards. Thailand had followed WOA's review of the Terrestrial Code to include wet blue leather in the list of safe commodities under Chapter 8.8 regarding FMD. However, its regulation was targeted at preventing and controlling various animal epidemic diseases, not only FMD. Therefore, Thailand took the view that to consider Brazil's proposal, technical experts needed to discuss wet blue leather import requirements. Thailand invited Brazil to hold technical consultations before the July 2023 SPS Committee meeting.

### **3.2.31 Indonesia's approval procedures for animal and plant products (ID 441) - Concerns of the European Union**

3.157. The European Union remained concerned about undue delays in Indonesia's approval procedures for imports of plant products and animal products. While there had been progress on some EU member State applications, many remained pending, without tangible progress. Information shared did not provide reasons for the lack of progress and long delays. The European Union urged Indonesia to comply with its WTO SPS obligations, by ensuring transparency of its approval procedures and finalizing the pending EU market access applications without undue delay.

3.158. The Russian Federation reiterated its concerns regarding the lack of progress in Indonesia's approval of export certificates for several products. The Russian Federation expected to receive a response regarding questionnaires on poultry and beef establishments and regretted that Indonesia had not provided an answer regarding a proposal for veterinary inspections. Expressing its readiness for bilateral cooperation, the Russian Federation urged Indonesia to comply with Article 8 and Annex C to the SPS Agreement and complete its approval procedures without undue delay.

3.159. Indonesia provided updates on the progress of EU member States' submissions regarding approval procedures for animal products and those for plant products. Indonesia took the view that it had continuously provided transparent updates on developments, changes, and progress of the application of each EU member States, and considered that its procedures and its responsiveness were compliant with Articles 5-8 of the SPS Agreement. Furthermore, Indonesia had responded to the two applications submitted by the Russian Federation and indicated that it could accept the importation of processed bovine meat and frozen boneless beef without lymphoglandula based on its national legislation and on Russia's status as FMD free without vaccination and controlled BSE risk. Indonesia also provided an update on the approval procedure for Russia's plant products and noted that further updates would be communicated through diplomatic channels. Indonesia hoped that the details provided addressed the concerns and requested the issues to be resolved bilaterally.

### **3.2.32 Korea's requirement of a health certificate with a declaration of aquatic disease status (ID 557) - Concerns of India**

3.160. India urged Korea to provide an update for the purpose of the WOA's quarterly Aquatic Animal Disease Report publications for Asia and Pacific region, something Korea had failed to do since 2015. Referring to WOA's Aquatic Code, India recalled that health certificates should not include requirements for the exclusion of pathogenic agents or aquatic animal diseases if they were present in the importing country and not subject to any official control programme. In addition, measures imposed on imports to manage the risks posed by a pathogenic agent or aquatic animal disease should not be more stringent than those applied domestically. India requested Korea to limit the certification requirements to what was necessary, preventing disruption to trade and ensuring compliance with the SPS Agreement.

3.161. Korea informed the Committee that it had submitted Aquatic Animal Disease Reports to WOA since 2005 and considered WOA to be a more appropriate forum to discuss this topic. In addition, Korea informed that it periodically conducted active surveillance for aquatic animal diseases in aquaculture facilities. When a disease was detected, affected aquatic animals were subject to an official control programme. Korea further indicated that it had chosen consignment

testing to reduce exporters' burden and facilitate trade, but zoning and compartmentalization through the surveillance for farms or production areas was a possible option.

### **3.2.33 India's requirement for certificate for non-GM origin and GM-free status (ID 501) - Concerns of the United States**

3.162. The United States acknowledged India's right to regulate products for food safety reasons but noted that India had not provided the scientific justification for its non-GM certificate requirement for the 24 crops listed in its order. The United States requested India to immediately revoke its measure and to engage to find alternatives that would address India's legitimate SPS concerns and facilitate safe trade. The United States submitted its statement in document [G/SPS/GEN/2114](#).

3.163. Paraguay pointed out that GMOs had been subject to strict scientific evaluations and were as safe as conventional counterparts, and noted their potential to contribute to global food security and more sustainably food systems. Paraguay referred to notifications [G/TBT/N/IND/240](#) and [G/SPS/N/IND/290](#) and asked India to clarify the link between the new drafts mentioned therein and the order subject to this concern.

3.164. Canada remained concerned that India's order unnecessarily restricted international trade and would disproportionately impact exports of GM-producing Members to India. To Canada, it remained unclear how India's non-GM certification requirement would fulfil its intended food safety objective, given the lack of available scientific information or justification to support its implementation. Canada called on India to share scientific and technical information, suspend the implementation of the measure, consider alternate, less trade-restrictive approaches, and notify its non-GM order to the SPS Committee.

3.165. Reiterating its concern, Argentina highlighted that SPS measures should be based on scientific principles and a risk assessment, as well as international standards. Argentina asked for the scientific evidence underpinning India's order notified as [G/TBT/N/IND/168](#) and for the criteria used to deviate from the principal of substantial equivalence.

3.166. Japan reiterated the concern that India's measure was not based on scientific principles nor a proper risk assessment, was more trade-restrictive than necessary, and could have a negative impact on agricultural trade. Under Japan's domestic laws, GM agricultural products for human consumption were subject to safety evaluations, and agricultural products not approved by the evaluation process could not be imported nor distributed domestically. In Japan's view, requiring a non-GM origin and GM-free certificate for items under appropriate control in the country of origin was not scientifically justified, and Japan requested India to withdraw its requirement for such items.

3.167. Brazil reiterated its concerns and referred to its previous statement regarding the lack of scientific basis for India's non-GM requirement. Brazil asked India to notify new developments to the SPS Committee and to engage with Members to create trade facilitating solutions that would meet India's objectives.

3.168. Australia noted that it was common international practice to maintain regulatory oversight and control on agricultural crops subject to genetic modification, and considered that requiring GM assurances on a consignment-by-consignment basis did not improve regulatory outcomes. Australia further considered that other Members' regulatory systems to control GM exports should be recognized, such as Australia's strong regulatory framework and controls on GM-crops. Australia noted that India had adopted a similar certificate for the export of vegan food products, which came into effect in January 2023.

3.169. Uruguay considered that there was no technical justification for the certification requirement, and noted the international consensus that GM products approved on the basis of Codex risk assessment recommendations were considered to be equivalent to their conventional counterparts. Referring to the objective of ensuring food safety, Uruguay enquired why the measure had not been notified to the SPS Committee. Uruguay further sought clarification on the link between notifications [G/TBT/N/IND/240](#) and [G/SPS/N/IND/290](#).

3.170. The European Union considered India's requirement to go beyond what was necessary to achieve its stated objective and to put an additional burden on and substantial costs for EU exporters.

The European Union requested explanations as to why India considered necessary to impose such a burden on trading partners with a high prevalence of non-GM food and have a robust regulatory regime covering the use of GM products. The European Union asked India to waive its requirement for food items.

3.171. India reiterated that import of GM foods was not allowed in India, and that the requirement of non-GM certificate to be accompanied with imported food consignment was only an assurance provided by the exporting country that the food crops which were not approved by the Genetic Engineering Approval Committee were not imported in India. Therefore, India relied on an assurance provided by the exporting country and was similarly issuing such certificates for its own exports. India further noted that tolerance and traceability requirements for adventitious presence of GMOs as well as the threshold for the labelling of adventitious presence of approved GM material in non-GM grain varied among trading partners. India also recalled that imports remained permissible if the adventitious presence of GM content was less than the tolerance limit specified in the FSSAI order. Noting that several trading partners were providing the requisite certificate, India indicated that it remained open to discussions to facilitate trade.

### **3.2.34 Panama's restrictions and procedure to regain access for Peruvian potatoes and onions (ID 512) - Concerns of Peru**

3.172. Temporarily putting aside its concerns regarding potatoes, Peru expressed its concerns regarding Panama's suspension of imports of onions from Peru and the related undue delays in restoring trade. Peru recalled that Panama had suspended imports of Peruvian onions in 2016 based on an updated pest risk analysis, which was contrary to the SPS Agreement and the IPPC principle of "technical justification". Peru also reported on the lack of response regarding the results of Panama's risk analysis and complained about reiterated requests for information that had been previously submitted. Peru requested Panama to allow market access for Peruvian onions to prevent violations of Articles 2, 5 and 8 and Annex C to the SPS Agreement and to avoid unnecessary and unjustified barriers to trade. Peru submitted its statement in document [G/SPS/GEN/2120](#).

3.173. Costa Rica shared the concern and was of the view that Panama's practices totally restricted access of agricultural products to the Panamanian market. Costa Rica asked Panama to take into consideration Members' concerns regarding inadequate implementation of SPS measures and failure to comply with the SPS Agreement.

3.174. Panama took note of the comments made and would transmit them to capital. Noting the bilateral engagement in a technical commission in the context of their Free Trade Agreement, Panama informed the Committee that it was reviewing the documents provided by Peru and reiterated its willingness to find mutually satisfactory solutions.

### **3.2.35 Ecuador's import restrictions on grapes and onions (ID 498) - Concerns of Peru**

3.175. Hoping to make progress bilaterally on onions, Peru raised concerns regarding the measures applied by Ecuador to the reopening of access for grapes. Peru had provided responses on the requirement for the refrigerated transport of grapes and hoped to agree on the import requirements and to conclude this process following the revision and analysis of the information provided. Peru submitted its statement in document [G/SPS/GEN/2121](#).

3.176. Ecuador responded that Peru's concern in the context of the Andean Community had concluded. Ecuador hoped to reach an agreement on the transportation of grapes and reiterated its willingness to continue dialogue with Peru to resolve this concern.

### **3.2.36 China's import suspension of fresh fruits (ID 532) - Concerns of Chinese Taipei**

3.177. Chinese Taipei reiterated its concerns about China's import suspension of pineapples, sugar apples, wax apples, and citrus, and requested China to resume imports in accordance with the SPS Agreement and relevant international standards. Noting the effective risk-preventing measures adopted to improve the exportation of these fruits, Chinese Taipei regretted that it had not received substantive responses from China regarding its requests for scientific and technical dialogues, nor for detailed identification reports, the adopted ALOP or the risk assessment reports. Chinese Taipei looked forward to China withdrawing its measures to comply with Articles 2, 3 and 5 of the

SPS Agreement, to provide the necessary scientific identification and risk assessment reports, and to engage in a bilateral scientific and technical dialogue to resolve this issue.

3.178. China recalled that, since 2020, quarantine pests had been repeatedly found on pineapples, sugar apples, wax apples, and citrus imported from Chinese Taipei. Although China had communicated this information to Chinese Taipei, the situation had not improved, and imports of these fruits had been temporarily suspended in line with the transparency rules and the IPPC principles of risk assessment as well as with the requirements related to control, inspection and approval procedures. China urged Chinese Taipei to take effective measures to improve the situation and ensure the source management measures taken in orchards and packing houses could eliminate the quarantine risks affecting the fruits at issue. While pointing out the ineffectiveness of the measures previously taken by Chinese Taipei to reduce the risk of quarantine pests, China suggested Chinese Taipei reconsider the measures and take effective actions for China to make further assessments.

### **3.2.37 US import restrictions on apples and pears (ID 439) - Concerns of the European Union**

3.179. The European Union regretted that the United States had still not published its final rule to give market access to apples and pears under a systems approach. The European Union reiterated that the US scientific assessment had concluded that apples and pears from the European Union were safe for imports. Yet, this final administrative step was blocked by the United States. The European Union indicated that, while the US market was open under a preclearance programme, trade was nearly inexistent due to the high costs associated with this approach. The European Union urged the United States to base its import conditions on science and publish its final rule.

3.180. The United States reminded the European Union of the existing preclearance programme and noted that the EU request was being addressed through its administrative process. The United States informed of recent discussions in October 2022 and noted its availability for further discussion.

### **3.2.38 US non-recognition of the pest-free status in the European Union for Asian longhorn beetle and citrus longhorn beetle (ID 471) - Concerns of the European Union**

3.181. The European Union reiterated its concern regarding the US failure to recognize the EU pest-free status for Asian longhorn beetle and citrus longhorn beetle. Although it had satisfactorily finalized its scientific risk assessment, the European Union indicated that the United States was delaying the remaining last administrative steps necessary to formalize the recognition of pest-free status in 21 EU member States. This undue delay also prevented further work on the recognition of pest-free areas of affected EU member States. The European Union urged the United States to formally accept the pest-free areas and to publish its final notice in line with its commitments under the SPS Agreement.

3.182. The United States assured the European Union that it was working through its administrative procedures to process this request. The United States noted the bilateral technical engagement on the matter, including discussions during the October 2022 Plant Health Working Group meeting, and looked forward to continued cooperation.

### **3.2.39 The Morocco's import ban on ornamental plants (ID 548) - Concerns of the European Union**

3.183. Referring to its full intervention in eAgenda, the European Union reiterated its concern about Morocco's measures intended to fight against the spread of the *Xylella fastidiosa* disease. The European Union noted that a measure introducing major barriers for EU plant products had been notified by Morocco in October 2021 ([G/SPS/N/MAR/67/Add.1](#)), and another adopted measure in March 2023 ([G/SPS/N/MAR/67/Add.2](#)). The European Union enquired whether the latter measure replaced the previously notified measure as well as the (non-notified) circular imposing a general ban on ornamental plants. Should this be the case, the European Union requested Morocco to renotify its measure and allow for a period of time given the substantial changes that had been introduced. On substance, the European Union considered that the measure lacked proportionality, did not seem to fully take into account the principle of regionalization, imposed burdensome and

duplicative requirements, and was disproportionate and unjustified. The European Union urged Morocco to comply with the SPS Agreement and engage in bilateral discussions in the very near future.

3.184. Morocco recalled that it had notified its measure in 2020 ([G/SPS/N/MAR/67](#)). Following comments from trading partners, Morocco had notified a modified measure ([G/SPS/N/MAR/67/Add.1](#)), and again in March 2023 ([G/SPS/N/MAR/67/Add.2](#)) to implement several adjustments and provide a 6-month flexibility to importers to conform to its *X. fastidiosa* related requirements. Morocco highlighted that, as a country free from *X. fastidiosa*, it would make every effort for plant protection in compliance with its international obligations. Morocco also emphasized that its measure was taking into account the evolution of the bacteria in several counties, including EU member States. Finally, Morocco reiterated that it was in the process of updating its phytosanitary legal framework so as to strengthen its surveillance and control systems for imports and domestic products. Morocco remained available for bilateral discussions.

### **3.3 Information on resolution of issues ([G/SPS/GEN/204/Rev.23](#))**

3.185. The European Union was pleased to announce the partial resolution of the STC "Non-publication of US final rule on importation of sheep, goats and certain other ruminants (ID 493)". The United States had published its final rule on the importation of sheep, goats, and certain other ruminants, allowing it to proceed with EU member States market access applications for sheep and goat meat. One EU member State had also received market access for small ruminants. The European Union, however, noted that other EU member States still had applications pending. The European Union hoped that the equivalence process could be finalized without further delays.

## **4 OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT**

### **4.1 Equivalence**

#### **4.1.1 Information from Members**

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

### **4.2 Pest- and disease-free areas (regionalization)**

#### **4.2.1 Information from Members**

##### **4.2.1.1 Chile - Declaration regarding quarantine pests ([G/SPS/GEN/2107](#))**

4.2. Chile affirmed that its phytosanitary measures were adapted to the regional characteristics of the areas from which the product originated and to which the product was destined. It also informed the Committee that the Agricultural and Livestock Service (SAG) regularly established and updated its lists of quarantine pests, and confirmed that *Xylella fastidiosa* was absent throughout its territory. Chile invited Members to consider the information provided when defining the import requirements for its vegetable products.

##### **4.2.1.2 Argentina - Current avian influenza status**

4.3. Argentina stated that, despite the strengthening of prevention and surveillance actions in response to the spread of HPAI in the world since 2020, several cases had been detected in South America in 2022. Argentina's National Agriculture and Food Quality and Health Service (SENASA) had reinforced its activities for early detection of cases in its territory. Following an initial detection of the AI virus in wild birds in February 2023 in Argentina, 49 cases had been detected in backyard birds, seven in commercial birds and four in wild birds. Argentina explained the actions put in place following the detection of AI in poultry. Argentina also reminded that WOAHP was being kept informed when relevant and that the updated information was available on SENASA's website. Argentina requested its trading partners to maintain market access requirements for poultry products according to WOAHP recommendations, and to consider new proposals for certification, adapted to the sanitary situation.

### **4.3 Operation of transparency provisions**

#### **4.3.1 Information from Members**

##### **4.3.1.1 Brazil - Implementation of transparency provisions**

4.4. [Brazil](#) informed the Committee that it had made over 220 SPS notifications in 2022, using ISSB standards and based on scientific evidence. Brazil had two inquiry points to maintain a consistent high number of notifications. Brazil also indicated that it had been able to raise awareness among its producers of the importance of notifying SPS measures, and encouraged Members to share experiences and provide information on their transparency activities under this agenda item.

#### **4.3.2 Annual Report on Transparency and Specific Trade Concerns ([G/SPS/GEN/804/Rev.15](#) and [G/SPS/GEN/204/Rev.23](#))**

4.5. The [Secretariat](#) recalled that the annual reports on transparency and on STCs had been merged into one document circulated with the two document symbols. The document included three parts: Part A, providing an overview of the level of implementation of the transparency obligations; Part B, containing information on STCs; and Part C, covering other transparency-related aspects. Highlighting the improvements of the analysis and the graphic design, the Secretariat invited Members to check the key points included in the introduction of the document, and welcomed any comments or suggestions for upcoming revisions.

4.6. The Secretariat also reminded the Committee of the proposal made in June 2022 to prepare a "technical revision" of the Recommended Transparency Procedures in document [G/SPS/7/Rev.4](#), to reflect the new ePing SPS&TBT Platform and notification practices. No comments had been received and the updated Recommended Transparency Procedures had been circulated as document [G/SPS/7/Rev.5](#). The Secretariat also indicated that it would update the Practical Manual for SPS National Notification Authorities and SPS National Enquiry Points to reflect the new ePing SPS&TBT Platform and the update of the Recommended Transparency Procedures.

4.7. The new [ePing SPS&TBT Platform](#) had been officially launched in July 2022, with the participation of senior officials from ITC, UNDESA and WTO. Improvements of the Platform included the integration of the "Other documents" search function and a new design. The Platform interface had also been modified to support other languages than the WTO working languages, with versions in other languages to be provided by ITC and UNDESA. More information on the SPS transparency tools was available in the transparency annual report, [G/SPS/GEN/804/Rev.15](#).

4.8. The Secretariat also shared a new beta function in the [Trade Concerns Database](#), developed in collaboration with the TBT and CMA teams upon request by Members, cross-referencing potentially related STCs discussed in the TBT, SPS or CMA Committees. These cross-references had been added by the Secretariat when Members had indicated they had raised a given trade concern in more than one Committee, or if other information related to the STCs, such as notifications cited, indicated that the STC was covering the same measure. For the time being, since only three Committees used the Trade Concerns Database, the links had been created only for concerns raised in the CMA, SPS, and/or the TBT Committees, as appropriate. These cross-references had been added in addition to the existing cross-references between related STCs in the SPS area. Stressing that the feature was in development, the Secretariat invited Members to get in touch should they find any errors or have any comments.

### **4.4 Control, inspection and approval procedures**

#### **4.4.1 Information from Members**

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

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#### **4.4.2 Working Group on Approval Procedures (G/SPS/W/328/Rev.1, G/SPS/W/328/Rev.1/Add.1, G/SPS/GEN/2097, G/SPS/GEN/2098 and G/SPS/GEN/2099)**

4.10. The Chairperson drew the Committee's attention to his draft report on the informal meeting of the Committee of 22 March 2023. The final report is included in [Annex A](#).

4.11. The Chairperson reminded that the Working Group on Approval Procedures had submitted the following documents: a summary of process and discussions ([G/SPS/GEN/2097](#)), a collection of available tools and resources ([G/SPS/GEN/2098](#)) and a document summarizing outcomes and recommendations ([G/SPS/GEN/2099](#)). The Chairperson further reminded that the Secretariat had then circulated the Collection of Available Tools and Resources in Relation to Approval Procedures and the Recommendations in Relation to SPS Approval Procedures as W documents in the form of Committee decisions ([G/SPS/W/337](#) and [G/SPS/W/338](#)), and that these two documents were being put forward for adoption by the Committee. The Committee adopted the Collection of Available Tools and Resources in Relation to SPS Approval Procedures ([G/SPS/W/337](#)) and Recommendations in Relation to SPS Approval Procedures ([G/SPS/W/338](#)).<sup>4</sup>

4.12. Following adoption, the European Union, the United States, Brazil, and Türkiye took the floor to congratulate the Working Group and co-stewards for their hard work and output during a challenging time period. Members noted the documents provided useful tools for Members on approval procedures. The co-stewards, Canada and Paraguay, also took the floor to thank the Secretariat for enabling the Working Group to carry out its tasks, and to thank participants for their hard work and inputs.

#### **4.5 Special and differential treatment**

##### **4.5.1 Information from Members**

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

##### **4.5.2 Presentation from the Secretariat**

4.14. The Secretariat presented on the work undertaken by the Committee on Articles 9 and 10 of the SPS Agreement. The presentation was circulated as document [RD/SPS/226](#).

4.15. Colombia underscored the importance of raising awareness about available mechanisms. Noting the need for an increased participation of developing Members and LDCs, Colombia was of the view that the main challenge in the implementation of the SPS Agreement related to the fulfilment of requirements of importing developed Members. SPS measures were increasingly strict, and often deviated from international references, such as those of Codex. Colombia noted that Article 10 had never been used and regretted that the lack of clarity in the text made it difficult for developing countries and LDCs to fully benefit from the provisions of the Agreement. Colombia suggested that the debate should focus on some key elements of Article 10, and that Group 5 of the MC12 SPS Declaration could serve as a platform to assess the implementation and functioning of the SPS Agreement for developing countries and LDCs.

4.16. Echoing the previous intervention, Ecuador was of the view that the presentation contained relevant aspects on the developments of concerns of developing countries and discussions, and allowed for a reflection on the reduction of gaps in capacity and means for Members' implementation of the SPS Agreement. Ecuador noted that the tools available to improve regulatory dialogue had never been invoked, possibly due to the lack of awareness on their existence.

4.17. Paraguay noted the importance of the effective implementation of Articles 9 and 10, and hoped that the presentation would promote more active exchanges under the corresponding agenda item. Paraguay considered the importance of operationalizing special and differential treatment in light of the increasing participation of developing Members in the Committee, and that Group 5 of

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<sup>4</sup> The Collection of Available Tools and Resources in Relation to SPS Approval Procedures and the Recommendations in Relation to SPS Approval Procedures were subsequently circulated as [G/SPS/67](#) and [G/SPS/68](#), respectively.

the MC12 SPS Declaration could contribute to promoting this task. Paraguay recognized the importance of technical assistance and cooperation, and reinforced the idea that the recipients should be part of the design of technical assistance to ensure it contributed to the fulfilment of the requirements of importing markets.

4.18. The European Union stated that Group 5 provided a good opportunity to look in detail at special and differential treatment. The European Union suggested that the Committee focus its efforts on this topic in the context of Group 5 to come up with relevant findings and recommendations.

## **4.6 Monitoring of the use of international standards**

### **4.6.1 New issues**

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

### **4.6.2 Issues previously raised**

#### **4.6.2.1 European Union - ASF restrictions not consistent with the WOAHS international standard**

4.20. The European Union pointed out inconsistencies in the application of WOAHS international standards related to ASF. The European Union considered that many Members did not follow the WOAHS Terrestrial Code guidance for identification, treatment, and certification of tradable products and zoning. The European Union highlighted that ASF could be managed effectively to ensure that legitimate trade was not the cause of any outbreak, as presented in the Thematic Session held in November 2021. The European Union added that ASF was a disease affecting several WTO Members, and that it was a shared interest to maintain free and safe trade of pork and pork products. Members were invited to address the issue of country-wide bans and implement science-based, rational and proportionate import policies.

#### **4.6.2.2 European Union - HPAI restrictions not consistent with the WOAHS international standard**

4.21. The European Union regretted that some Members disregarded their obligations under Article 6 and Annex C to the SPS Agreement and implemented country-wide bans after a local AI outbreak. The European Union indicated that these bans were not scientifically justified if effective movement controls were in place, and there was no justification to wait one year or more to restore disease-free status. The European Union drew attention to the revised WOAHS Terrestrial Code on AI, which recommended a reduced waiting period of 28 days instead of 3 months. The European Union asked Members to respect their obligations on regionalization, follow WOAHS recommendations, and allow trade from non-affected zones.

#### **4.6.2.3 Canada - Update on WOAHS BSE negligible risk status**

4.22. Canada reported that several Members had removed the remaining BSE restrictions on Canadian cattle, beef, and beef products based on Canada's WOAHS BSE negligible risk status, and several other Members were actively taking steps to remove their remaining BSE related restrictions. Canada urged Members who had not yet done so to remove the remaining restrictions on Canadian exports. Canada recalled the importance of basing SPS measures on international standards, as established in Article 3 of the SPS Agreement.

### **4.6.3 WOAHS - Joint side event on monitoring and the Observatory project**

4.23. WOAHS reiterated its commitment to monitor the uptake of its international standards. WOAHS reminded Members that the Observatory programme had recently been set up and had produced its first annual report this year, available in English, French, and Spanish.<sup>5</sup> The report provided a global perspective of Members' implementation of standards. WOAHS noted that the main

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<sup>5</sup> More information is available in the dedicated webpage: [Observatory - WOAHS - World Organisation for Animal Health](#).



limitation of the Observatory was the availability of information both in quantity and quality, and encouraged Members to submit good quality information to enable meaningful analysis. WOAH indicated its willingness to provide input if and when the Committee decided to revisit the SPS notification forms.

#### **4.7 Follow-up to the Fifth Review of the Operation and Implementation of the SPS Agreement ([G/SPS/64](#) and [G/SPS/64/Add.1](#))**

##### **4.7.1 Report on the informal meeting**

4.24. The Chairperson drew the Committee's attention to his draft report on the informal meeting of the Committee of 22 March 2023, specifically referring to the summaries of the discussions on the follow-up to the Fifth Review, the SPS Declaration Work Programme, the November 2023 Thematic Session and the renewed expression of interest from the International Olive Council (IOC). The final report is included in [Annex A](#).

##### **4.7.2 Information from Members**

4.25. No Member took the floor under this agenda item.

4.26. The [Chairperson](#) proposed that this agenda item be removed from the next meeting agenda, since the documents that had emerged from the work of the Working Group on Approval Procedures had been adopted by the Committee. No Member took the floor.

## **5 CROSS-CUTTING ISSUES**

### **5.1 SPS Declaration Work Programme ([WT/MIN\(22\)/27](#) and [G/SPS/W/330/Rev.1](#))**

#### **5.1.1 Update on thematic groups**

5.1. The [Chairperson](#) drew the Committee's attention to the draft report on the updates on thematic groups provided in the informal meeting. The proposals/summaries by co-stewards were circulated in documents [G/SPS/W/332](#) (Group 1); [G/SPS/W/333](#) (Group 2); [G/SPS/W/336](#) (Group 3); [G/SPS/W/334](#) (Group 4) and [G/SPS/W/335](#) (Group 5).<sup>6</sup> The final report is included in [Annex A](#). The Chairperson's report on the intersessional SPS Committee consultations held in February 2023 is available in [Annex B](#).

5.2. Noting the nature of this work programme, the [United States](#) referred to the session held in Group 1 on 20 March 2023, where agricultural producers had presented on their approaches to sustainability, the tools and technologies used to sustainably increase their production, and the trade barriers they faced. Highlighting that there was no "one size fits all" approach to sustainability, reaching the shared goals required flexibility to use approaches adapted to their contexts. SPS measures could facilitate or hinder the adoption and use of innovative tools to maximize productivity and sustainability. Looking ahead, the United States invited Members to propose speakers for the upcoming sessions to be held in May, and suggested under Group 3 discussing the importance of developing and implementing effective legislation and for authorities to adapt SPS measures to regional conditions and to establish and recognize pest- and disease-free areas and areas of low pest- and disease prevalence to enhance safe international trade. Noting the progress in discussions for Group 4 on how to encourage cooperation with observer organizations supporting the work of the Committee and ISSBs, the United States referred to some practical suggestions about the information to be shared. Finally, the United States acknowledged the work

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<sup>6</sup> Group 1 focuses on how to facilitate global food security and more sustainable food systems; Group 2 on how to support basing SPS measures on scientific evidence and principles; Group 3 on how to enhance the safe international trade in food, animals and plants and products thereof through the adaptation of SPS measures to regional conditions; Group 4 on how to encourage cooperation with observer organizations that support the work of the SPS Committee and the international standard setting bodies; and Group 5 on how to increase participation of and support for the special needs of developing and least developed country Members in the development and application of SPS measures. More information on the MC12 SPS Declaration work programme is available in the dedicated webpage: [WTO | SPS Declaration at MC12](#).

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around the workshop organized with the STDF for Group 5 and looked forward to hearing about Members' complementary efforts in this respect.

5.3. The United States suggested that the Committee prepare a report consisting of a simple compilation of the objective and factual activities prepared by the stewards, which would serve as the input for Members to determine outcomes of the work programme, including key findings and recommendations, if appropriate. Finally, the United States requested that thematic groups be referred to by their number or their theme, i.e. the complete text reflected in the SPS Declaration.

## **5.2 MC12 implementation matters ([JOB/CTG/19/Rev.2](#), [G/C/W/824/Rev.1](#) and [JOB/SPS/25/Rev.1](#))**

### **5.2.1 Information from the Chair**

5.4. The Chairperson updated the Committee on the discussions in the CTG on MC12 implementation matters related to WTO reform and COVID-19. He recalled that document [JOB/CTG/19/Rev.2](#) contained all the reports prepared in that context and that document [G/C/W/824/Rev.1](#) included a comparison matrix on the current functioning of the CTG and its subsidiary bodies. As a follow-up to the presentation of the reports of all subsidiary bodies in the informal CTG meeting in January, Chairpersons and Secretaries were requested to organize discussions concerning the functioning of their respective Committees, to allow Members to identify possible areas for improvement and, subsequently, submit a written report to the CTG describing the discussions held and improvements introduced. Document [ICN/CTG/8/Suppl.1](#) outlined the next steps for the CTG.

5.5. The Chairperson informed the Committee that a group of Members had submitted a request to discuss the functioning of the SPS Committee, taking into account the comparison matrix on the current functioning of the CTG and its subsidiary bodies.

### **5.2.2 Submission from Members ([JOB/SPS/25/Rev.1](#))**

5.6. On behalf of the proponents, Paraguay explained that the document identified challenges facing delegations and proposed specific actions to improve their preparation and participation in WTO Committees. The document was based on the report and the matrix on the functioning of the 14 subsidiary bodies of the CTG, and on Members exchanges on the improvement of the regular work of Committees. While the SPS Committee was already applying most of the suggestions, Paraguay noted that further improvements on the use of digital tools and eRegistration, as well as the potential implementation of a style manual could be incorporated. Paraguay expected the document to provide a guide for a structured dialogue with other bodies undertaking a similar revision, and invited Members to analyse the document with a constructive spirit to further improve the functioning of the SPS Committee.

5.7. The United Kingdom referred to the ideas put forward by the LDC Group in document [JOB/GC/223/Rev.1](#). Acknowledging the innovative initiatives undertaken by the SPS Committee, the United Kingdom believed that the more inclusive the systems, the more benefits delegations could gather. Although each presented its own nuances, the United Kingdom encouraged other WTO Committees to learn lessons from the SPS Committee to facilitate participation and accessibility for all Members, and invited the SPS Chairperson and Secretariat to work with Members on taking forward any such ideas.

5.8. The Chairperson suggested the inclusion of the topic in the agenda of the informal July meeting and invited interested Members to submit comments or proposals ahead of the meeting.

5.9. Paraguay proposed the organization of an informal meeting ahead of the July Committee meeting to explore with the Secretariat the feasibility of the ideas proposed in [JOB/SPS/25/Rev.1](#).

5.10. Acknowledging the proactive functioning of the SPS Committee, Costa Rica supported the suggestion to informally discuss with the Secretariat the feasibility of the proposed improvements, namely, regarding the use of technology, for the Committee to assess a timeline for the way forward.

5.11. The United States agreed that the SPS Committee was a gold standard, but noted that practices in this Committee might not be applicable to others. The United States indicated it would review information on discussions between the Secretariat and the Members on the feasibility of the proposals before it would be in a position to endorse or further discuss the proposals.

5.12. The Secretariat noted that the Committee had often pioneered initiatives, had already implemented many of the ideas proposed, and had taken action to take on board other suggestions. These included organizing a briefing session on the functioning of the SPS Committee targeted at new delegates ahead of the Committee week and using the ICN symbol for the communication from the Chairperson on the informal meeting. The Secretariat looked forward to receiving further ideas from Members and proposed to include the informal exchange in the agenda of the intersessional meetings planned for May to facilitate Members' participation.

5.13. The Chairperson confirmed that the item would be included in the agenda of the intersessional meeting in May and of the informal July Committee meeting, and invited Members to submit proposals ahead of the meeting.

5.14. Switzerland took the floor to indicate that it considered the Committee to be a role model for other WTO Committees. Switzerland noted the importance of in-person meetings, as many useful bilateral exchanges were conducted during Committee week. Switzerland encouraged Members to send delegates to attend Committee meetings in person.

5.15. The United States and the European Union echoed Switzerland's intervention on the importance of attending Committee meetings in person. The United States noted that technology allowed for greater participation, but also that SPS was a technical topic which benefited from experts coming together to discuss complex issues.

### **5.3 November 2023 Thematic Session**

#### **5.3.1 Proposal from the United States ([G/SPS/GEN/2067](#))**

5.16. Referring to its proposal in [G/SPS/GEN/2067](#) for a thematic session on Risk Communication, Misinformation, and Disinformation, the United States indicated it would provide a more detailed agenda prior to the next Committee meeting and welcomed Members reaching out with suggestions.

5.17. Chile thanked the United States for the proposal and emphasized the aspect of public perception. Chile noted the importance of communication in risk analysis and its influence on consumer preferences, as well as on Members' regulatory approaches, and underscored the relevance of the session for health protection and maintaining smooth trade flows. Chile suggested including in the agenda successful experiences or communication strategies of risk in emergency situations and other cases of public interest, and informed the Committee that it would provide speakers to share its domestic experience.

## **6 TECHNICAL ASSISTANCE AND COOPERATION**

### **6.1 Information from the Secretariat**

6.1. The Secretariat provided an overview of technical assistance activities held in 2022. A total of 16 SPS training activities had been carried out, including seven national seminars and nine other activities, such as the SPS Transparency Champions course and the course on Essentials for SPS Committee participation. The Secretariat highlighted past activities held since the last Committee meeting, including national seminars in Peru (22- 24 November), Tanzania (29 November-1 December), Togo (29 November-1 December), and general training on the SPS Agreement provided in person or virtually. The Secretariat indicated that further information on SPS technical assistance activities could be obtained on the [SPS Gateway of the WTO website under events, workshops and training](#). It was also noted that the e-learning course on the SPS Agreement was currently available in English on the WTO's new e-learning platform, while the French and Spanish versions were in the process of being added to the new e-learning platform.

6.2. The Secretariat also drew Members' attention to document [G/SPS/GEN/997/Rev.13](#), which provided an overview of planned activities for 2023. Two new activities had been added: a revamped

advanced course on the SPS Agreement to be held in English during the weeks of 9-16 October 2023; and a regional SPS workshop for Central and Eastern Europe, Central Asia and the Caucasus countries to be held during the week of 17 July 2023 in Vienna. The Secretariat highlighted that the deadline to apply to participate in these activities was 19 May. Additional details on these activities, including the eligibility criteria and prerequisites, as well as the web link to the application form, were provided in document [G/SPS/GEN/997/Rev.13](#) and on the [SPS Gateway of the WTO website under events, workshops and training](#). Upcoming activities also included national SPS seminars in Chile (18-20 April), El Salvador (25-27 April), Nigeria (25-27 April), Morocco (22-24 May), and the Dominican Republic (23-25 May) and there were pending requests for Guyana, the Philippines, and Uruguay. The Secretariat further noted that the SPS Transparency Champions course, which had been launched in October 2022, would conclude in June 2023 with a follow-up session in Geneva for participants to report on the progress and implementation of their action plans.

6.3. [Chile](#) welcomed the support received for the organization of the national activity scheduled for 18-20 April on the use of the ePing Platform for SPS and TBT notifications. The activity would contribute to improving transparency and national coordination among regulatory agencies and SPS and TBT enquiry points in Chile.

#### **6.1.1 WTO SPS Activities ([G/SPS/GEN/997/Rev.13](#) and [G/SPS/GEN/521/Rev.18](#))**

#### **6.1.2 STDF ([G/SPS/GEN/2102](#))**

6.4. The [STDF Secretariat](#) reported on its recent activities detailed in document [G/SPS/GEN/2065](#). The STDF Secretariat reminded of the workshop organized in the context of Group 5 of the MC12 SPS Declaration. Information on all past activities could be found on the [STDF website](#). The STDF Secretariat reminded Members that its next Working Group meeting would be held on 14-15 June, with over 60 project grant applications submitted in the most recent round of intake. The STDF Secretariat noted the deadline for the next round of applications was August 2023 in consideration for the November Working Group meeting and encouraged developing country Members to visit their website to apply. The STDF Secretariat further highlighted its recent external assessment on gender, which included recommendations for improving gender mainstreaming in STDF projects. The STDF 2022 annual report would be issued in June.

### **6.2 Information from Members**

#### **6.2.1 European Union - SPS-related technical assistance provided in 2019-2020 ([G/SPS/GEN/1139/Add.6](#))**

6.5. The [European Union](#) reported on technical assistance activities for the 2019-2020 period. Detailed information was circulated in document [G/SPS/GEN/1139/Add.6](#). The European highlighted that it financed more than 275 projects with budgets ranging for €4000-€40 million. Assistance was provided to more than 80 countries, group of countries, regional, regional organizations, international organizations. The projects were related to all major SPS areas, including animal health, plant health and food safety. The European Union also drew Members' attention to projects which aimed to help address the emerging challenges identified in the MC12 SPS Declaration by assisting on sustainability issues and mitigating the effect of climate change. The European Union was also proud to be among the top contributors to global development assistance, particularly in the SPS field, and invited interested countries to approach European Union delegates.

## **7 CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS**

7.1. No Member provided information under this agenda item.

## **8 OBSERVERS**

### **8.1 Information from Observer Organizations**

#### **8.1.1 OECD ([G/SPS/GEN/2091](#))**

8.1. The report on [OECD](#) activities is contained in document [G/SPS/GEN/2091](#).

**8.1.2 OIRSA ([G/SPS/GEN/2093](#))**

8.2. The report on OIRSA activities is contained in document [G/SPS/GEN/2093](#).

**8.1.3 GSO ([G/SPS/GEN/2094](#))**

8.3. The report on GSO activities is contained in document [G/SPS/GEN/2094](#).

**8.1.4 IGAD ([G/SPS/GEN/2095](#))**

8.4. The report on IGAD activities is contained in document [G/SPS/GEN/2095](#).

**8.1.5 ECOWAS ([G/SPS/GEN/2096](#))**

8.5. The report on ECOWAS activities is contained in document [G/SPS/GEN/2096](#).

**8.1.6 ITC ([G/SPS/GEN/2101](#))**

8.6. The report on ITC activities is contained in document [G/SPS/GEN/2101](#).

**8.1.7 IICA ([G/SPS/GEN/2103](#))**

8.7. IICA indicated that a detailed report on their activities was contained in document [G/SPS/GEN/2103](#). Some of the highlights were the 6<sup>th</sup> edition of their virtual coordination sessions on WTO SPS Committee addressing matters related to the MC12 work programme, veterinary products and MRLs; the Codex coordination colloquiums; and support for participation in Codex meetings. Future activities included a number of sessions related to animal diseases, including ASF, BSE, and HPAI.

**8.1.8 AOAD ([G/SPS/GEN/2108](#))**

8.8. The report on AOAD activities is contained in document [G/SPS/GEN/2108](#).

**8.2 Requests for observer status****8.2.1 New requests**

8.9. The Chairperson reminded the Committee of the renewed expression of interest for observer status from the IOC, which had been previously circulated in document [G/SPS/GEN/121/Add.20](#). The Chairperson indicated that he had been informed that Members positions had not changed and that it would therefore not be possible to reach consensus on the IOC's request. The Secretariat would inform the IOC that there had been no consensus and that its request had therefore not been accepted.

**8.2.2 Pending requests**

8.10. The Chairperson referred to document [G/SPS/W/78/Rev.15](#), listing outstanding requests for observer status. The Chairperson indicated that, absent any intervention, he would assume that the positions of Members had not changed.

8.11. No Member took the floor under this agenda item.

**9 ELECTION OF THE CHAIRPERSON**

9.1. The Chairperson reminded the Committee that, according to the Rules of Procedure, the term of office of the SPS Committee Chairperson finished with the conclusion of the first meeting of every year. However, the Chairperson of the CTG had not yet concluded consultations on chairpersons for the CTG subsidiary bodies in accordance with the established Guidelines for Appointment of Officers to WTO bodies ([WT/L/31](#)). The Committee therefore agreed to postpone the election of the Chairperson until the Committee meeting in July 2023.

## 10 OTHER BUSINESS

10.1. No Member took the floor under this agenda item.

## 11 DATE AND AGENDA OF NEXT MEETING

11.1. The Chairperson recalled that the next regular meeting of the Committee was tentatively scheduled for the week of 10 July 2023, with the formal meeting starting in the afternoon of 12 July 2023. The proposed calendar of Committee meetings for 2023 had been circulated as [G/SPS/GEN/2036/Rev.1](#).

11.2. The Secretariat indicated it would prepare a summary report based on oral interventions in the meeting, complemented by Members' ability to download complete statements via eAgenda. The Secretariat drew Members' attention to the feature on eAgenda which allowed for either all statements or those related to a particular STC to be downloaded.

11.3. The Secretariat reminded the Committee of the following deadlines, also circulated by email:

For submitting statements: **Friday, 24 March 2023**;

For comments on the Chairperson's draft report on the informal SPS Committee meeting: **Friday, 31 March 2023**;

For submitting names of speakers and written inputs for the May meetings of the Thematic Groups of the SPS Declaration Work Programme: **Friday, 14 April 2023**;

For submitting comments on the proposed agenda for the November Thematic Session, based on the proposal from the United States ([G/SPS/GEN/2067](#)): **Friday, 21 April 2023**;

For submitting proposals to improve the functioning of the SPS Committee: **Friday, 26 May 2023**;

For identifying new issues for consideration under the monitoring procedure, AND for requesting that items be put on the agenda: **Wednesday, 21 June 2023**; and

For the distribution of the annotated draft annotated draft agenda: **Friday, 23 June 2023**.

**ANNEX A****INFORMAL MEETING – 22 MARCH 2023**

## REPORT BY THE CHAIRPERSON

**1 SPS DECLARATION WORK PROGRAMME ([G/SPS/W/330/REV.1](#) AND [WT/MIN\(22\)/27](#))****(i) Update on thematic groups**

1. At the informal meeting on 22 March 2023, I recalled that the SPS Committee had been working to fulfil the mandate outlined in the SPS Declaration ([WT/MIN\(22\)/27](#)) adopted by Ministers in June 2022 and that the five Thematic Groups had met since the last Committee meeting, including during the ongoing Committee week, to discuss the themes outlined in the Declaration. As foreseen in [G/SPS/W/330/Rev.1](#), Thematic Groups had reported regularly to the full membership on ongoing discussions, in the intersessional consultations and in the informal Committee meetings. The summary of the intersessional consultations, held on 10 February, had been circulated to delegates and would be annexed to the summary report of the March formal Committee meeting. I also reminded delegates of the summaries submitted by the co-stewards on the work of the Thematic Groups, which were contained in the following documents: [G/SPS/W/332](#) (Group 1); [G/SPS/W/333](#) (Group 2); [G/SPS/W/336](#) (Group 3); [G/SPS/W/334](#) (Group 4) and [G/SPS/W/335](#) (Group 5).

2. Group 1: On behalf of the two co-stewards, Jonathas José Silva da Silveira (Brazil) and Knut Berdal (Norway), the latter reported on the status of Group 1. The Group had held meetings in September 2022, November 2022 and February 2023. Under their own responsibility, co-stewards had circulated a summary of written inputs received during the several rounds for Members' comments, providing a non-exhaustive, illustrative review of the issues addressed in the Group. In February 2023, the Group had agreed on a calendar of events to get inputs on the following topics: 1) Producers' experiences - On Monday, 20 March, Group 1 had heard 12 producers' experiences, with broad regional representation, who had provided inputs on how the implementation of the SPS Agreement may impact trade, food security and the sustainability of food systems. The co-stewards indicated that Members were satisfied by the presentations and the dialogue within each of the four sessions of the day. The presentations had been made available on the [dedicated MC12 SPS webpage](#). 2) Relevant inputs from other international organizations and secretariats, that would be presented during the week of 8 May. And 3) Discussions on sustainability at WTO - The Secretariat had prepared and circulated a report compiling information on sustainability discussions in various WTO bodies, that was available on the dedicated webpage. The note provided an illustrative, non-exhaustive overview of recent sustainability discussions across the WTO, grouped by Council/Committee. Members' were invited to submit written inputs and proposals for presenters by the deadline of Friday, 14 April. A draft agenda would be circulated ahead of the meeting for Members' consideration.

3. I reminded Members that a producer had indicated that their most significant risk to their career was policy, which underscored the importance of our work in the SPS Committee.

4. Group 2: Boitshoko Ntshabele (South Africa) noted that the Group had not met on the margins of the March Committee meetings to accommodate the large expressions of interest to hear from producers in Group 1. The meeting had been deferred to the week of 8 May 2023. The steward recalled the agreement reached in February to hold a workshop inviting the international standard setting bodies (ISSBs) to present on their guidance on risk assessment and uncertainty, and also to reflect on how emerging challenges in point 6 of the MC12 SPS Declaration impact the conduct of risk assessments. Three expressions of interest had been received from Members to present case studies and share experiences on dealing with uncertainty. FAO and WHO (on behalf of Codex), the IPPC, WOA, and Members would have 10-15 minutes for their presentations. An additional written input had also been received and added to the compilation of inputs available on the dedicated webpage. Members were invited to suggest additional speakers and to provide further inputs on how to take forward the work of Group 2. The steward also invited Members to start

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considering recommendations that the Group could make for the report to the Thirteenth Ministerial Declaration (MC13).

5. Group 3: Miguel Donatelli (Argentina), who had taken over from the previous steward, Ambassador Sofía Boza (Chile), reminded delegates that the Group had met back-to-back with other Groups and that document [G/SPS/W/336](#) summarized the work undertaken until February 2023. This included the work undertaken by Members on regionalization, a presentation provided by the World Organisation for Animal Health (WOAH) on their recommendations on regionalization on animal health (November 2022) and a presentation by the Secretariat on the Committee's work in this area, namely Article 6, the subsequent guidelines and relevant thematic sessions (February 2023). In the March Committee meeting, the IPPC had presented their standards on regionalization, a survey showing the relatively low uptake of the standards, and some examples of successful adoption of regionalization and safe exchange of products. Three additional written inputs had been received from Members and had been presented in the March meeting. The steward noted that the inputs contained Members' perspectives on regionalization, which were important to obtain suggestions on how to improve the implementation of the principle of regionalization and to fulfil the mandate from MC12. Members' inputs and all other documents were available on the dedicated webpage in the three WTO languages. Following the exchange of views for the upcoming meeting during the week of 8 May, some Members had asked to hear positive and negative experiences with regionalization, from exporters' and importers' perspectives. Other Members had also suggested launching initiatives to see which areas could be worked on to start preparing recommendations to improve the implementation of the principle. One Member additionally suggested discussing the need for appropriate legislation and authorities to establish and recognize pest- and disease- free areas.

6. Group 4: Geoff Richards (United Kingdom) reported on the 4<sup>th</sup> meeting of the Group, held in hybrid format the previous day, for which an agenda had been circulated in advance. Inputs had been received from one Member, who had presented them during the session. The steward noted the presentation provided by the Secretariat in February on the main guidance, requirements and decisions on Observer organizations, which was available on the dedicated webpage. He indicated that participants had expressed interest to further discuss the following three areas: (i) Maximizing the value from the ISSB and Observer organization agenda items at the SPS Committee – Suggestions had been made to allocate, at each Committee meeting, a longer slot to an individual ISSB to inform on a topical highlight, its links to the Agreement, and activities relevant to the emerging challenges identified in the Declaration; and to provide additional guidance to ISSBs and Observers organizations regarding their updates to the Committee, including greater emphasis on current and new activities, rather than past activities. A number of observers had welcomed the feedback on their updates and noted the usefulness of receiving more guidance. (ii) Enhancing coordination between Observer organizations through the Committee – Support had been expressed to further explore the idea of the SPS Committee meetings acting as a focal point to aid greater coordination amongst Observer organizations, while remaining mindful of how the Observers provided support to the Committee and the implementation of the Agreement and considering the links to Thematic Group 5. The Secretariat had reminded Members that technical support could be provided upon request from regional organizations, but that since the COVID pandemic no requests had been received. (iii) Receiving presentations from Observer organizations to "increase Members' understanding on non-ISSB observers' remit and activity in the context of the SPS Committee/Agreement" – There was support for a series of awareness-raising sessions to highlight their roles and connection to the SPS Agreement and Declaration challenges. A suggestion was made to prioritize hearing from *ad hoc* observers. The steward would further coordinate next steps with the Secretariat and some initial options would be put forward for participants' consideration in advance of the Group's next meeting. The steward also summarized some of the answers provided by Observer organizations to the questions circulated in December. A note of the meeting would be circulated to participants. Participants were invited to provide written inputs/contributions in advance of the Group's next meeting in May.

7. Group 5: On behalf of the two co-stewards, Cecilia Gutiérrez (Ecuador) and Joanna Grainger (Australia), the latter reported on the activities of Group 5. She recalled the very valuable discussions held at the STDF workshop the previous day and thanked all those involved. In response to a question received on the link between the STDF and discussions in Group 5, the steward clarified that although the Group's discussions had noted that the support and capacity building offered to developing and LDCs via the STDF and broader bilateral support mechanisms was essential to the implementation of the Agreement, there was not necessarily broad awareness among delegates of



the STDF and the tools and resources available. The steward indicated that technical cooperation and capacity building were based on collaboration and the development of synergies, sharing of information and discussions of lessons learned, which were fundamental to allow the better use of scarce resources. The Group planned to continue to explore the support to Members on capacity building outside of the STDF in the May meeting, and invited donor and recipient countries to express interest to share their experience and learnings, including South-South support and experiences. The steward would also welcome feedback on the written report shared ahead of this meeting on the intersessional meeting of Group 5 held in February.

8. As a follow-up, one Member reminded the Committee that the STDF had been created specifically to address the issues discussed in Group 5.

9. Two Members made general comments about the Thematic Groups and expressed their high satisfaction with the meetings held that week. The Members recalled that this was a Member-driven process and that the output would depend on the inputs Members put into the process. These Members were of the view that the summaries provided by co-stewards were succinct but comprehensive and objective. Keeping time constraints in mind and considering it would be the last opportunity for discussion, the Members invited delegates to take advantage of the May meetings to bring to the table all the voices that needed to be heard as well as all aspects, concerns, and angles so that they could be considered. Following the May meeting, Members would have to start reflecting together on the ideas that could be reported as findings and recommendations. One of the Members specifically indicated that streamlined, objective reports of facts by the co-stewards could be used as the input for the Secretariat to prepare the report, as a basis for the Committee to decide on what to report to MC13. The Member noted that the July meetings could be an opportunity to discuss findings and possibly bracket recommendations.

10. Another Member noted that this was a good platform for Members to have deep and pragmatic discussions. The Member also noted that these discussions should be within the scope of the SPS Agreement and should focus on how to address difficulties and challenges facing Members in the implementation of the SPS Agreement, especially developing countries and LDCs, and help them improve capacity to further enhance implementation of the Agreement.

11. I also noted that some Members had requested to include on the agenda of the formal meeting, the presentation that had been delivered by the Secretariat on Articles 9 and 10 of the SPS Agreement during the meeting of Group 5 in February. Three Members supported the idea of sharing the presentation with the full Membership, as they considered that not all Members had the capacity to follow all Thematic Groups, that the presentation was factual and illustrative, and would provide Geneva- and capital-based delegates with further inputs to continue working on this aspect of WTO rules. I indicated that I would suggest to include this item on the agenda of the formal meeting at the start of the meeting.

12. The Secretariat indicated it had initially reserved 8-10 May for Thematic Group meetings, but might have to extend the meetings to Thursday, 11 May, depending on how many speakers were proposed for each Group. The Secretariat proposed to present the note prepared for Group 1 on sustainability discussions in different WTO bodies at the May meeting to allow time for discussion if Members so wished, and noted that all the presentations of the meetings held over the previous two days had already been uploaded on the webpage.

13. I recalled that the deadline to submit inputs was Friday, 14 April.

## **[2 FOLLOW-UP ON THE ADOPTION OF THE REPORT OF THE FIFTH REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT \(G/SPS/64 AND G/SPS/64/ADD.1\)](#)**

14. The Committee also discussed how to take forward some of the recommendations in the Fifth Review Report, as well as ongoing work in various areas.

**(i) Exchange of experiences and continued discussions on various topics**

15. We first addressed the recommendations that encourage Members to continue to discuss or exchange experiences. I highlighted that these recommendations were found in various sections of the Fifth Review Report.

16. I reminded Members that at our last informal meeting in November, no Member had taken the floor to provide any further comments or suggestions. Since the Committee was currently focused on the MC12 Declaration work programme, and the next Review was supposed to take place next year, I proposed that the Committee take a break from this agenda item on the exchange of experiences. I underscored that Members were still invited to share information at any point, if they should so wish.

17. I invited Members to provide any comments or feedback on my suggestion, and also on the various recommendations in the Fifth Review Report. No Member objected to the suggestion to take a break from this agenda item on the exchange of experiences, and no Member provided any comments on the recommendations in the Fifth Review Report.

**(ii) SPS Committee Working Group on Approval Procedures ([G/SPS/W/328/Rev.1](#), [G/SPS/W/328/Rev.1/Add.1](#), [G/SPS/GEN/2097](#), [G/SPS/GEN/2098](#) and [G/SPS/GEN/2099](#))**

18. The co-stewards for the Working Group, Canada and Paraguay, provided an update on the activities of the Working Group, which had just concluded its work.<sup>1</sup>

19. Between November 2020 and March 2023, the Working Group had worked on four main themes: (i) a common understanding of "approval procedures"; (ii) key challenges of approval procedures; (iii) principles of approval procedures that facilitate international trade while meeting the importing Member's appropriate level of protection; and (iv) available tools and best practices in relation to approval procedures.

20. Based on these discussions, the Working Group had developed: (i) a comprehensive record of the Working Group's work ([G/SPS/GEN/2097](#)); (ii) a collection of available tools and resources ([G/SPS/GEN/2098](#)), listing existing instruments that had been identified by Working Group participants to enhance the implementation of the SPS Agreement; and (iii) an overview of outcomes and recommendations ([G/SPS/GEN/2099](#)). Recommendations included that:

- a. The collection of available tools and resources be kept up to date by the SPS Committee with the assistance of the Secretariat;
- b. Members consider the use of SPS Committee mechanisms to facilitate discussions on approval procedures, and to explore the need for additional guidance or tools;
- c. Members be encouraged to further the implementation of Annex C of the SPS Agreement;
- d. Members be reminded of the importance of key principles of the SPS Agreement, including those reflected in Annex C, with specific recommendations in the context of the transparency principle;
- e. Members be encouraged to engage in regulatory cooperation to maximize capacity and resources, to facilitate approval procedures, and to address asynchronous approvals; and

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<sup>1</sup> Twenty-five Members had participated in the Working Group: Argentina, Belize, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, the European Union, Japan, Mexico, New Zealand, Norway, Paraguay, Peru, the Philippines, the Russian Federation, Singapore, South Africa, Switzerland, Chinese Taipei, Ukraine, the United Kingdom, the United States, and Uruguay. One Observer organization, the OECD had also participated.

- f. Members be encouraged to adopt approval procedures making use of modern technologies and practices, such as remote audits, and to work with relevant international organizations in this area.

21. The collection of available tools and resources in document [G/SPS/GEN/2098](#) and the recommendations in part 5 of document [G/SPS/GEN/2099](#) had been circulated for possible endorsement by the Committee.

22. Following the co-stewards' update, I provided an opportunity for Members to raise any questions or comments on the activities of the Working Group. No Member took the floor. I noted that it appeared that the Committee would be in a position to endorse the collection of available tools and resources as well as the recommendations and indicated that we would return to this topic in the formal meeting. I further requested the Secretariat to circulate the two documents with W symbols ([G/SPS/W/337](#) and [G/SPS/W/338](#)), following the informal meeting, for possible adoption by the Committee. I invited Members to provide any comments on this approach. No Member took the floor.

### **3 NOVEMBER 2023 THEMATIC SESSION ([G/SPS/GEN/2067](#))**

23. I then invited Members to discuss the November 2023 thematic session, recalling the proposal submitted by the United States in document [G/SPS/GEN/2067](#) for a thematic session on SPS risk communication, with an emphasis on public perceptions of issues concerning food, technology, health, and the environment. I invited the United States to provide additional information on its proposal.

24. The United States informed Members that it would submit a draft programme ahead of the July SPS Committee meeting, for discussion at that meeting. The United States also invited interested Members to reach out to the United States regarding the thematic session.

25. Two Members took the floor, welcoming the proposal and indicating their interest in collaborating. One of these Members also encouraged thinking ahead about the agenda of thematic sessions for 2024. I invited Members to submit further comments on the US proposal by the deadline of Friday, 21 April.

### **4 RENEWED EXPRESSION OF INTEREST FROM THE INTERNATIONAL OLIVE COUNCIL (IOC)**

26. I provided information on a renewed expression of interest for observer status from the International Olive Council (IOC). I reminded Members that the initial expression of interest had been submitted by IOC ahead of last year's June meeting in document [G/SPS/GEN/121/Add.20](#).

27. During the June meeting, I had indicated to the Committee that I had been informed that it would not be possible to reach consensus on IOC's request and requested the Secretariat to accordingly inform the IOC that there had been no consensus to accept its request.

28. At this week's informal meeting, I drew attention to a communication received from the IOC in February of this year, renewing their interest in being granted observer status to the SPS Committee. I noted that this information was being provided to inform the Committee of this recent development. I invited Members to provide any comments or suggestions. No Member took the floor.

29. I indicated to Members that my understanding was that the situation had not changed, and that there was still no consensus to grant observer status to the IOC. As such, I requested the Secretariat to write to the IOC indicating that the Committee was not in a position to grant its renewed request for observer status.

**ANNEX B****INTERSESSIONAL SPS COMMITTEE CONSULTATIONS  
MC12 SPS DECLARATION WORK PROGRAMME – 10 FEBRUARY 2023****DRAFT REPORT BY THE CHAIRPERSON**

1. I recalled that the SPS Committee had commenced its work in June 2022, to fulfil the mandate outlined in the SPS Declaration ([WT/MIN\(22\)/27](#)) adopted by Ministers at the Twelfth Ministerial Conference (MC12). For that purpose, five Thematic Groups had been created and were led by co-stewards. These co-stewards were charged with reporting on the discussions of their Groups for the purpose of informing all Members of the ongoing discussions. I noted that in November 2022, the Committee had agreed to the proposed process circulated in document [G/SPS/W/330/Rev.1](#), and that Members had been invited to submit written inputs by 20 January 2023, all of which were subsequently made available on the dedicated webpage for the MC12 SPS Declaration ([wto.org/spsdeclaration](#)) in the three WTO languages.

2. By way of background, the Secretariat noted that Thematic Groups were not expected to make decisions, but to facilitate discussions leading to observations or actions, and possible proposals for further discussions in the SPS Committee. These groups were led by co-stewards acting as neutral facilitators of the discussions. The Secretariat further underscored that the Thematic Groups would continue to regularly report to the full Membership on ongoing discussions, namely through oral reports at intersessional consultations and through written submissions. Stewards were expected to report on the work in their Thematic Groups in a factual and balanced manner.

**(i) Brief reports from co-stewards and proposals/summaries to be submitted by co-stewards ahead of the March SPS Committee meeting**

3. I recalled that the proposed process in [G/SPS/W/330/Rev.1](#) established a deadline of 1 March 2023 for co-stewards to submit proposals/summaries based on discussions held in the Thematic Groups, and would be further discussed in the informal meeting in March.

4. The Secretariat reminded Members that the Thirteenth Ministerial Conference (MC13) would be held in February 2024 in the United Arab Emirates, and that according to the MC12 SPS Declaration, the Committee had to report to MC13 on its key findings and actions with recommendations, as appropriate. The Secretariat outlined the steps involved in the preparation of the report, noting the tight timeline and the key milestones in the process.

5. I informed Members that Ambassador Sofía Boza (Chile), the steward of Group 3, had announced that she would step down from her role, and that Miguel Donatelli (Argentina) would be taking over this role.

6. Group 1: Jonathas José Silva da Silveira (Brazil) and Knut Berdal (Norway) reported on the Group's discussions on theme 1 of paragraph 8 of the Declaration. The Group had held its third meeting on 8 February, and inputs received had been made available to all Members in advance of the meeting on the dedicated webpage. The first part of the meeting had focused on soliciting and organizing relevant inputs from other international organizations and Members' experiences, and how the Group could develop a schedule of presentations for the following meeting. Members had discussed the relevance of various external sources and noted that inputs should be concrete, directed and focused towards addressing challenges in the implementation of the SPS Agreement and the mechanisms available to address them; and the impacts of emerging challenges on the application of the SPS Agreement.

7. The next steps included organizing a schedule of presentations focusing on Members' experiences and presentations from producers, followed by inputs from relevant organizations and secretariats. In addition, a request had been made for the Secretariat to provide information on relevant activities and processes relating to sustainability at the WTO. The co-stewards encouraged Members to think

of proposals relevant to the SPS Agreement and its challenges, notably those listed in paragraph 6 of the Declaration.

8. The co-stewards would prepare a written summary of the meeting findings to be distributed among all Members with no specific proposals included, considering all oral and written proposals. They reminded Members of the 1 March deadline, noting that Members could submit inputs at any time. The co-stewards would also develop a schedule based on submitted inputs.

9. Members emphasized their support for hearing from outside voices, which seemed to have been echoed in the Group discussions. Noting tight timelines to organize the event, a Member underscored the need to make this aspect more explicit in the instructions to Members to ensure that they could plan for the event and have their perspectives represented. The co-stewards reassured Members that an email would be circulated to solicit presenters, and that this would be included in the circulated next steps, with a set deadline of 1 March for proposals. The call for presentations would be circulated to Members and relevant regional groups to ensure that the presentations could be organized within the tight deadline.

10. Group 2: Boitshoko Ntshabele (South Africa) reported on the Group's discussions on theme 2 of paragraph 8 of the Declaration. The steward noted the high levels of participation and reiterated the importance of the role of Members' inputs in moving the Group forward. In the prior meeting, Members had been asked for inputs, the Group had requested that the Secretariat present on scientific evidence, risk assessment, uncertainty and transparency, and Members were asked to share how they deal with scientific uncertainty. All inputs had been made available online on the dedicated webpage. The presentation from the Secretariat had showed that the Committee had discussed uncertainty in the past.

11. One Member indicated that despite raising the issue multiple times, their suggestion had not been included in summary, and further requested guidance on how the Three Sisters can deal with emerging challenges. Members also asked for clarity on how to deal with scientific uncertainty in their regulations going forward.

12. In terms of next steps, the steward indicated that the Group would request a presentation from international standard setting bodies (ISSBs) for March on their guidance on risk assessment and uncertainty, where they would also be invited to reflect on how emerging challenges in point 6 of the MC12 SPS Declaration impact the conduct of risk assessments. Members were encouraged to express interest to present on their own experiences dealing with uncertainty before 1 March to the Secretariat (copying the steward), after which an agenda would be created and circulated.

13. One Member noted it was pleased with the attention paid to the issue of emerging challenges regarding risk assessments and scientific uncertainty, highlighting that during the Group meeting, the representative from Codex had indicated that risk assessments were conducted by FAO/WHO. The Member was looking forward to seeing how the Group deals with emerging challenges, as the discussion was currently focused on implementation, rather than emerging challenges and implementation.

14. Group 3: Ambassador Sofía Boza (Chile) reported on the Group's discussions on theme 3 of paragraph 8 of the Declaration. Since the last report in November 2022, the Group had held an additional meeting with over one hundred delegates in person and online. This meeting had included a review of the written inputs received up to 20 January, a presentation by the Secretariat on the "Work carried out in the SPS Committee on adaptation to regional conditions", and a period of open discussion among participants. She recalled that for the last meeting, four written contributions had been received and made available to all participants online. Those submissions had focused on a diverse set of issues, which ranged from the importance of being able to review the previous work of the SPS Committee on regionalization issues, notably the work of international organizations and specifically WOH, to proposed special topics for the Group's consideration. These topics included: i) technical and administrative capacities of least developed and developing Members; ii) importers' acceptance of the recognition of regional conditions; and iii) importers' acceptance of the classification of disease status. The steward also provided an overview of the Secretariat's presentation which included an analysis of the relevant provisions of the SPS Agreement, the Guidelines to Further the Practical Implementation of Article 6 ([G/SPS/48](#)), trends in notifications and specific trade concerns, and the recommendations from the Reviews of the Operation and

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Implementation of the SPS Agreement, with emphasis on the Fifth Review adopted in June 2020 ([G/SPS/64](#)). In addition, she gave a summary of the discussions that followed the presentations, where Members had asked for clarification, shared successful practical experiences, and emphasized some of the issues discussed. Lastly, she also informed Members that she would be leaving the position of steward, and expressed support for the new steward (Miguel Donatelli, Argentina), while thanking the Secretariat and Members for their support and participation in the Group.

15. One Member thanked Ambassador Boza for her work, congratulated the new steward, and voiced its appreciation for the comprehensive report, which included a pragmatic approach and overview of the work that would be done for MC13.

16. Miguel Donatelli (Argentina), the new steward of Group 3, expressed his thanks to the former steward, Members and the Secretariat for their work in Group 3 and indicated he would be working with the Secretariat to ensure a smooth and successful transition.

17. Group 4: Geoff Richards (United Kingdom) reported on the Group's discussions on theme 4 of paragraph 8 of the Declaration. The meeting had followed the agenda circulated in advance, which had captured suggestions from the previous meeting. It had included a presentation by the Secretariat on the history and governance of observer organizations, followed by Members' comments on the presentation; a discussion of written and oral meeting inputs by Members; and a discussion on observer organization responses to questions posed to them by email in advance. Three written submissions from Members had been received: a proposal for ad hoc observers to present how their work supported the Committee and ISSBs, including an indication of how best to engage them; a suggestion that the Committee was not fully using observers during the Committee meetings and that possible improvements could be explored seeking more targeted reflections from these organizations; and an observation that it was important to identify all relevant international organizations and ISSBs working on the emerging challenges identified in the SPS Ministerial Declaration to allow the SPS Committee to be informed on their relevant activities. There were also suggestions to explore how observer organizations could better contribute to discussions in the SPS Committee, including as it relates to their support to developing and least developed Members; that the Group consider which of the specific challenges from the Declaration should be focused on in more detail; and that better use could be made of the Committee agenda item covering relevant activities of the Three Sisters, encouraging updates that shared their expertise and experience with the challenges identified in the Declaration.

18. There had been a reminder that the majority of Members of the Committee were also members of the Three Sisters, and that better and more active use should be made of their domestic networks and representatives. UNCTAD highlighted its work on non-tariff barriers to trade, and was interested in hearing whether they could provide other information that would be relevant to the Committee. There was another brief discussion on the scope of the Group and the distinction between the role and expectations of ISSBs and other observers. It was noted that ISSBs have a specific role to play in the Committee, and the importance of remaining within the scope of their mandate.

19. The steward noted that key actions and observations would be circulated in an informal note to Members in the following week, including the presentation made by the Secretariat and the steward's initial observations on the responses from observer organizations. He suggested that Members email their headline observations and emerging themes and any other inputs by 1 March to aid in more in-depth discussions at the following meeting, which was proposed to take place on 21 March. The proposed agenda items would cover the following areas: developing specific suggestions on how to get the most value from observer organizations' agenda item at the SPS Committee (including ISSBs); exploring any broader opportunities the Committee can offer to act as focal point for enhanced coordination between ISSBs and other observers; providing specific suggestions on how the ISSBs may further support the Committee; and refining specific proposals for a round of presentations from non-ISSBs observer organizations outlining their roles and support to the Committee.

20. Group 5: Joanna Grainger (Australia) and Cecilia Gutierrez (Ecuador) reported on the Group's discussions on theme 5 of paragraph 8 of the Declaration. The co-stewards thanked Members for their submissions, which had been made available on the dedicated webpage, and the Secretariat for its presentation on Articles 9 and 10. This issue had been explored by the Committee many times in the past, and the presentation had prompted discussion led by developing and least developed Members. There was a proposal that the presentation made by the Secretariat be presented again

at the upcoming Committee meeting. During the discussion, it was noted that Article 10 had not been used to date, and that discussions were had on different aspects of special and differential treatment (S&DT) and what it means for different Members. There was also a proposal to make S&DT a more active topic in the Committee, either using the current standing agenda item or as part of the periodic reviews of the Agreement. One Member also made reference to the positive impact of technical assistance on their trade, describing the support received.

21. The co-stewards reminded Members of the three-hour workshop planned for the March meeting, and briefly discussed the agenda. Some Members indicated that in addition to STDF, it was important to highlight the capacity building provided directly between Members and by other organizations. Other Members noted the need to continue the conversation on S&DT, and to understand the perspective of both donors and beneficiaries involved in technical assistance activities. The co-stewards indicated that they would hold another session in May to further explore these areas. An informal note summarizing the discussions and next steps would be circulated, along with the presentation from the Secretariat.

22. One Member referred to its intervention during the Thematic Group meeting, where it had highlighted that S&DT involved more than funding and technical assistance, and that there was also need to further examine transition periods and how to better utilize them. In response, the co-steward agreed that this topic had been discussed in the meeting and would be reflected in the written summary to the Membership.

23. I invited the co-stewards to submit proposals/summaries of work in the Thematic Groups, based on discussions held, by 1 March 2023 for further discussion in the March Committee meeting.

#### **(ii) Coordination and scheduling of information sessions discussed in Thematic Groups**

24. I recalled that, in November 2022, an initial discussion had been held on the 2023 thematic sessions and/or workshops. The Committee had agreed that the November 2023 thematic session would be on risk communication, misinformation and disinformation, based on a proposal by the United States in [G/SPS/GEN/2067](#). Members had also agreed that the space normally allocated to thematic sessions and/or workshops in the March and July meetings would be dedicated to discussions around the MC12 SPS Declaration Work Programme.

25. In the inputs provided by Members by the deadline of 20 January, there were several ideas for presentations from international organizations, producers, etc. These ideas had been discussed in the Group meetings held over the past two days, and were included in the intersessional agenda to allow for coordination among the plans of the different Groups.

26. I then invited the Secretariat to provide an overview of a potential structure for the March SPS Committee week. The Secretariat indicated that given the increased number of STCs discussed in formal meetings, it would revert to the usual practice of starting the informal meeting on Wednesday morning and the formal meeting on that afternoon. As such, there would be two full days at the start of the week for the Work Programme. Based on the earlier discussions in the Thematic Group meetings, the Secretariat proposed a tentative calendar of sessions focused on the Declaration Work Programme.

27. I reminded Members of the fast-approaching March meeting, and indicated that if Members agreed with the tentative planning, they would be invited to indicate their interest in putting forward presentations from producers in Group 1, and I would also request the Secretariat to contact the ISSBs and their parent bodies to present in Group 2. With respect to Group 2, I also invited Members to put forward speakers to present case studies on their experiences dealing with uncertainty, and indicated that they should contact stewards and/or the Secretariat before the 1 March deadline to allow sufficient preparation time. I noted that the process foresaw another time slot for meetings and intersessional consultations in May to continue discussions.

28. Members agreed to the proposed structure for the MC12 SPS Declaration-related discussions on the margins of the March Committee meeting.

**(iii) Next steps**

29. The Secretariat again recalled the deadline of 1 March 2023 for co-stewards to submit proposals/summaries of the work in Thematic Groups, which would be circulated to allow Members to prepare for the March Committee meeting. The Secretariat reiterated the schedule of Thematic Group meetings during the March Committee week, and invited Members to propose speakers for the meetings of Groups 1 and 2 by contacting co-stewards or the Secretariat no later than 1 March.

30. The Secretariat also noted that it had been requested to prepare a written document on discussions on the topic of sustainability in other fora at WTO, which would be made available before the March meeting. In addition, the Secretariat would contact the Three Sisters and their parent organizations to request them to present on risk assessment and uncertainty during the meeting of Group 2. The Secretariat also reminded Members that the co-stewards would circulate draft agendas to their focal points ahead of the upcoming meetings, and that all agendas would be compiled by the Secretariat and circulated to the SPS distribution list ahead of the March meeting, and posted on the dedicated webpage.

31. The Secretariat reiterated that Members were welcome to submit inputs at any time. If inputs were submitted before 1 March, the Secretariat would aim to have all the documents translated ahead of the March meeting. Written inputs submitted at a later date would also be made available in the three languages, but likely not before the meeting. As requested, all meetings would be held in hybrid mode with interpretation, with the Zoom links circulated in due course. According to the proposed process, another slot could be available in May for Members to gather and discuss the Work Programme. The Secretariat tentatively proposed the second week of May for these meetings. In addition, the margins of the July SPS meeting would provide an additional opportunity for discussion.

32. The Secretariat reminded Members that, at the beginning of the Work Programme, co-stewards had requested Members to provide a focal point to facilitate communication. The Secretariat continued to communicate all the relevant information through the SPS distribution list, in order to ensure that the full Membership is informed of all developments in the Work Programme. However, more detailed information on the work of each Group was shared by the co-stewards with the focal points. The Secretariat invited Members to contact the Secretariat or co-stewards to indicate their focal points, following which the contact lists of each Group would be updated accordingly.

33. In closing, I reminded Members that a factual summary on the discussions held during the intersessional consultations, prepared on my own responsibility, would be circulated by the Secretariat to the delegates' mailing list for Members' comments. Deadlines and next steps would be included.

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