



**Committee on Sanitary and Phytosanitary Measures**

**SUMMARY OF THE MEETING OF 16-17 OCTOBER 2013**

NOTE BY THE SECRETARIAT<sup>1</sup>

**Table of Contents**

<b>1 ADOPTION OF THE AGENDA .....</b>	<b>4</b>
<b>2 INFORMATION ON RELEVANT ACTIVITIES .....</b>	<b>4</b>
2.1 Information from Members .....	4
2.1.1 United States – Update on FDA Food Safety Modernization Act (FSMA) .....	4
2.1.2 Indonesia - Eliminating use of methyl bromide as a phytosanitary treatment (G/SPS/GEN/1271) .....	4
2.1.3 New Zealand - Whey protein concentrate contamination incident .....	4
2.1.4 Japan - Information on measures against the contaminated water issues at TEPCO's Fukushima Daiichi nuclear power station .....	4
2.1.5 Canada - New regulatory framework for federal food inspection.....	5
2.1.6 Canada – Change in reporting structure for the Canadian Food Inspection Agency.....	5
2.1.7 Mali - Anniversary of the Food Safety Institute .....	5
2.2 Information from the relevant SPS standard-setting bodies .....	5
2.2.1 OIE.....	5
2.2.2 IPPC .....	5
2.2.3 Codex .....	6
<b>3 SPECIFIC TRADE CONCERNS (G/SPS/GEN/204/REV.13) .....</b>	<b>6</b>
3.1 New issues .....	6
3.1.1 Accreditation of third-party bodies to conduct food safety audits and to issue certifications (G/SPS/N/USA/2570) - Concerns of China.....	6
3.1.2 India's import conditions for pork and pork products – Concerns of the European Union.....	6
3.1.3 Korea's import restrictions on fishery products with regard to radionuclides - Concerns of Japan.....	7
3.1.4 China's import policy on swallow nests – Concerns of Indonesia.....	7
3.1.5 Russia's non-recognition of testing laboratories for meat products - Concerns of India.....	8
3.1.6 Import restrictions by China, Japan and South Africa on beef due to BSE – Concerns of Brazil.....	8
3.1.7 Saudi Arabia's import conditions on poultry - Concerns of the European Union.....	8

<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 or obligations under the WTO.

3.1.8	Japan's new quarantine requirement for blueberries and delays in responding to proposed quarantine treatments - Concerns of Argentina.....	9
3.2	Issues previously raised .....	9
3.2.1	EU maximum residue levels of pesticides - Concerns of India (No. 306) .....	9
3.2.2	Indonesia's port closure (G/SPS/N/IDN/53, G/SPS/N/IDN/54 and G/SPS/N/IDN/54/Corr.1) – Concerns of China (No. 330).....	9
3.2.3	Japan's restrictions related to foot and mouth disease – Concerns of Argentina (No. 332) .....	10
3.2.4	Viet Nam's ban on offals – Concerns of the European Union and the United States (No. 314) .....	10
3.2.5	Turkey's requirements for importation of sheep meat - Concerns of Australia (No. 340) .....	11
3.2.6	Malaysia's import restrictions on pork and pork products – Concerns of the European Union (No. 323).....	11
3.2.7	Japan's restriction on shrimp due to anti-oxidant residues - Concerns of India (No. 342) .....	11
3.2.8	China's quarantine and testing procedures for salmon – Concerns of Norway (No. 319) .....	11
3.2.9	Import restrictions due to BSE - Concerns of the European Union (No. 193) .....	12
3.2.10	Indonesia's import restrictions on poultry meat - Concerns of Brazil (No. 286) .....	12
3.2.11	Japan's MRLs applied to sesame - Concerns of Paraguay (No. 321) (G/SPS/GEN/1272) .....	13
3.2.12	Application and modification of the EU Regulation on Novel Foods - Concerns of Peru (No. 238) .....	13
3.3	Consideration of specific notifications received .....	14
3.3.1	Turkey's prohibition of certain food additives in traditional foods (G/SPS/N/TUR/31) - Concerns of Japan .....	14
3.4	Information on resolution of issues in G/SPS/GEN/204/REV.13.....	15
<b>4</b>	<b>OPERATION OF TRANSPARENCY PROVISIONS .....</b>	<b>15</b>
4.1	Annual Report on Implementation of the Transparency Provisions (G/SPS/GEN/804/REV.6) .....	15
<b>5</b>	<b>IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT.....</b>	<b>16</b>
<b>6</b>	<b>EQUIVALENCE - ARTICLE 4.....</b>	<b>16</b>
6.1	Information from Members on their experiences .....	16
6.2	Information from relevant observer organizations .....	16
<b>7</b>	<b>PEST- AND DISEASE-FREE AREAS - ARTICLE 6 .....</b>	<b>16</b>
7.1	Information from Members on their pest or disease status.....	16
7.1.1	Mexico - Information on several pest-free areas (G/SPS/GEN/1265, G/SPS/GEN/1266, G/SPS/GEN/1267, G/SPS/GEN/1268) .....	16
7.1.2	Paraguay - Information on Huanglongbing in citrus (G/SPS/GEN/1273) .....	16
7.1.3	Guatemala – Information on areas free of Mediterranean fruit fly (G/SPS/GEN/1274) .....	17
7.1.4	Peru - Freedom from foot-and-mouth disease (FMD) (G/SPS/GEN/1281) .....	17
7.1.5	Philippines - Area free from mango pulp weevil and mango seed weevil (G/SPS/GEN/1278) .....	17

7.1.6 Costa Rica - Sanitary status of bovine spongiform encephalopathy (BSE) (G/SPS/GEN/1263) .....	18
7.2 Information from Members on their experiences in recognition of pest- or disease-free areas .....	18
7.3 Information from relevant observer organizations .....	18
<b>8 TECHNICAL ASSISTANCE AND COOPERATION .....</b>	<b>18</b>
8.1 Information from the Secretariat .....	18
8.1.1 WTO SPS activities .....	18
8.1.2 Report of the Workshop on Market Access .....	19
8.1.3 STDF (G/SPS/GEN/1279) .....	20
8.2 Information from Members .....	20
8.3 Information from Observers .....	21
<b>9 REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT .....</b>	<b>22</b>
9.1 Issues arising from the Second Review .....	22
9.1.1 Adoption of procedure relating to implementation of Article 12.2 (G/SPS/W/259/Rev.7) .....	22
9.2 Fourth Review .....	24
9.2.1 Proposed process for the review (G/SPS/W/270) .....	24
9.2.2 Proposal from Canada on a catalogue of instruments available to WTO Members to manage SPS issues (G/SPS/W/271) .....	24
<b>10 MONITORING OF THE USE OF INTERNATIONAL STANDARDS .....</b>	<b>25</b>
10.1 New issues .....	25
10.2 Issues previously raised .....	25
<b>11 CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS .....</b>	<b>25</b>
11.1 Report on informal meeting .....	25
<b>12 OBSERVERS .....</b>	<b>28</b>
12.1 Information from observer organizations .....	28
12.2 Requests for observer status .....	28
<b>13 OTHER BUSINESS .....</b>	<b>28</b>
13.1 The ban on import of Ukrainian confectionary products to Russia .....	28
<b>14 DATE AND AGENDA OF NEXT MEETING .....</b>	<b>29</b>

## 1 ADOPTION OF THE AGENDA

1.1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its fifty-eighth regular meeting on 16-17 October 2013. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/4202 and WTO/AIR/4202/Add.1).

## 2 INFORMATION ON RELEVANT ACTIVITIES

### 2.1 Information from Members

#### 2.1.1 United States – Update on FDA Food Safety Modernization Act (FSMA)

2.1. The United States drew attention to two recently notified FSMA-related proposed rules, titled "Foreign Supplier Verification Programs for Importers of Food for Humans and Animals" (G/SPS/N/USA/2569) and "Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications" (G/SPS/N/USA/2570), both of which were open for public comment until 26 November 2013. The United States also recalled that proposed rules on "Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food" and "Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption" were open for public comment until 15 November 2013. Members must submit their comments through the Federal eRulemaking Portal (<http://www.regulations.gov>) to ensure that comments can be considered by the Food and Drug Administration (FDA) in finalizing the rules.

#### 2.1.2 Indonesia - Eliminating use of methyl bromide as a phytosanitary treatment (G/SPS/GEN/1271)

2.2. Indonesia encouraged Members to eliminate the use of non-eco-friendly methyl bromide in phytosanitary treatments (G/SPS/GEN/1271), referring to a Memorandum of Understanding on the use of methyl bromide concluded by the parties to the Montreal Protocol on Substances that Deplete the Ozone Layer in 2011, and to a recommendation by the Commission on Phytosanitary Measures (CPM) in 2008 on the replacement or reduction in the use of methyl bromide as a phytosanitary treatment. The European Union echoed Indonesia's concerns regarding the negative environmental effects of methyl bromide, and also noted that the requirement to use this substance blocked trade in several of its plant products.

#### 2.1.3 New Zealand - Whey protein concentrate contamination incident

2.3. New Zealand provided information on a presumed contamination of whey protein concentrate by *Clostridium botulinum* in early August 2013. The New Zealand Ministry for Primary Industries had immediately alerted the competent authorities of trading partners and the WHO/FAO International Food Safety Authorities Network (INFOSAN), restricted the sale or export of all products known or suspected to contain whey protein concentrate, and implemented a tracing system. The companies involved had recalled all potentially affected products. The amount of potentially contaminated whey protein concentrate would have represented less than 0.002% of New Zealand's total dairy output. However, subsequent validation testing in the United States had confirmed that there was no *Clostridium botulinum* present in the products concerned. *Clostridium sporogenes* was present, but this bacterium presents no health risks to consumers. New Zealand stressed that there was no longer a basis for regarding any of its dairy products as being at risk of *Clostridium botulinum* contamination, and urged trading partners to lift any remaining import or sale restrictions.

#### 2.1.4 Japan - Information on measures against the contaminated water issues at TEPCO's Fukushima Daiichi nuclear power station

2.4. Japan reported that a leakage of contaminated water at the Fukushima Daiichi nuclear power station had been discovered on 19 June 2013. Increased radioactivity had been observed in an area smaller than 0.3 square kilometres within the port, but radiation levels outside the port and in the open sea remained within the WHO's guideline limits for drinking water. Japan had implemented measures to remove the sources of contamination and prevent further leakages, and isolate ground water from contamination sources. As regards food safety, Japan had established

radionuclide concentration limits based on Codex standards, and reached close to full compliance with these standards. Japan provided a fact sheet to the Committee on the actions taken to tackle the problem.

2.5. China expressed deep concern at the high radiation levels detected in sea water. According to recent news reports, the registered radiation level had hit a 2-year high. China urged Japan to ensure the safety of its food and aquaculture products, and to continue to keep the Committee abreast of any new developments.

### **2.1.5 Canada - New regulatory framework for federal food inspection**

2.6. Canada described its proposed new regulatory framework for federal food inspection, based on the Safe Food for Canadians Act of October 2012. The proposed regulatory framework was described in G/SPS/GEN/1282 and notified in G/SPS/N/CAN/700 (8 July 2013) and G/TBT/N/CAN/394 (19 July 2013). Members had until 30 November 2013 to comment on the proposed framework. Draft regulations would be notified for consultations in the spring of 2014. The final regulations were anticipated to come into force, together with the Safe Food for Canadians Act, in January 2015. Canada committed to provide an update and advise Members of next steps at the March 2014 WTO SPS Committee.

### **2.1.6 Canada – Change in reporting structure for the Canadian Food Inspection Agency**

2.7. Canada explained that the Canadian Food Inspection Agency (CFIA) had moved to reporting to the Ministry of Health as of 9 October 2013. This administrative change had brought all three federal authorities responsible for food safety (CFIA, Health Canada, and the Public Health Agency of Canada) under one ministry. The alignment would ensure coordinated federal food safety action and improved collaboration, but the work of these agencies would not change. The Ministry of Agriculture and Agri-food, to which the CFIA had previously reported, would remain responsible for agricultural activities other than those related to food safety.

### **2.1.7 Mali - Anniversary of the Food Safety Institute**

2.8. Mali informed the Committee that the Food Safety Institute of Mali, which is a Codex focal point, celebrated its tenth birthday and, on that occasion, it had produced a document which described the activities carried out by the agency in the last ten years, as well as, the prospect and challenges for the next ten years. Mali made available copies of the brochure.

## **2.2 Information from the relevant SPS standard-setting bodies**

### **2.2.1 OIE**

2.9. The OIE provided an update on its standard-setting work (G/SPS/GEN/1277). The Terrestrial Animal Health Standards Commission had proposed to remove vesicular stomatitis and swine vesicular disease from the list of OIE-notifiable diseases at its meeting in September 2013. The Terrestrial Code chapter on antimicrobial resistance had been updated, and the OIE would endorse national control programmes on contagious bovine pleuropneumonia (CBPP) to support national efforts to eradicate the disease. The OIE had also developed draft standards for establishing a horse subpopulation with high health status to facilitate the temporary international movement of competition horses.

### **2.2.2 IPPC**

2.10. The IPPC reported that it had transitioned to being directly under the FAO Assistant Director-General for Agriculture as of 1 October 2013 (G/SPS/GEN/1283). With regard to standard-setting, the IPPC highlighted some key recommendations stemming from a meeting of its Framework for Standards Task Force, including the need to conduct gap analysis for existing standards. The IPPC also drew the Committee's attention to national reporting obligations under the IPPC, referencing a study which showed that less than 5% of the plant-health related information reported to the WTO was reported to the IPPC, despite the obligation to do so under the Convention.

### 2.2.3 Codex

2.11. Codex provided information on its standard-setting work (G/SPS/GEN/1288). The 36<sup>th</sup> session of the Codex Alimentarius Commission, held in July 2013, had adopted a strategic plan for 2014-2019 as well as 25 new or revised standards. The Codex Committee on Residues of Veterinary Drugs had developed texts for adoption, among others, on risk management for veterinary drugs for which no ADI and/or MRL has been recommended by the Joint Expert Committee on Food Additives (JECFA). Regarding forthcoming work, Codex highlighted meetings of the Committee on Food Hygiene, which would consider proposed draft guidelines for control of specific zoonotic parasites in meat, and of the Committee on Fish and Fishery Products.

## 3 SPECIFIC TRADE CONCERNS (G/SPS/GEN/204/REV.13)

### 3.1 New issues

#### 3.1.1 Accreditation of third-party bodies to conduct food safety audits and to issue certifications (G/SPS/N/USA/2570) - Concerns of China

3.1. China raised concerns regarding the US proposed FSMA-related rule allowing for accreditation of third-party auditors/certification bodies to conduct food safety audits of foreign entities and to issue food and facility certifications (G/SPS/N/USA/2570). China noted that the statistics provided by the United States had demonstrated a generally safer level of imported foods than foods domestically produced in the United States. China requested the United States to provide scientific justification for proposing this overly burdensome and costly rule on imported foods. China considered that the proposed rule discriminated unjustifiably between foreign and domestic sources of supply and went beyond international standards without scientific justification. China urged the United States to accept the results of internationally accredited certification/audit bodies, and queried how the United States would recognize the equivalence of foreign food safety programmes, systems and standards. Referencing Article 13 of the SPS Agreement, China enquired what measures the United States would take to ensure that third-party auditors/certification bodies were WTO-compliant, and recalled that under Article 10 of the SPS Agreement, Members are to take into account the special needs of developing country Members in the preparation of SPS measures. China urged the United States to seriously fulfil its WTO obligations, take concrete steps to base its rule on the disciplines of the SPS Agreement and the relevant international standards, to ensure that the final rule would not create unnecessary obstacles to international trade.

3.2. Belize, Brazil and Korea shared China's concerns. Brazil noted in particular the role of private third-party auditors and certification bodies, and, with reference to Article 13 of the SPS Agreement, queried how the United States would ensure that such bodies complied with the relevant provisions of the SPS Agreement. Brazil also requested more information on how the United States would recognize the equivalence of foreign systems.

3.3. The United States recalled that it had provided information on the proposed rule in the Committee and elsewhere, including in China, and invited Members to submit their comments through the Federal eRulemaking Portal (<http://www.regulations.gov>) by 26 November 2013. The comment period had been extended to 120 days, to ensure that Members had enough time to provide their comments.

#### 3.1.2 India's import conditions for pork and pork products – Concerns of the European Union

3.4. The European Union noted that it had for several years been urging India to align its import conditions on pork and pork products with international standards. Currently, (a) India requested that the exporting country certify freedom from a number of diseases for which the OIE had not set an international standard, yet India had not provided a science-based justification for these import conditions; (b) India required exporting countries to have country freedom without contemplating the possibility of trade from established disease-free regions; (c) specifically with regard to import conditions for processed meat of pork origin, India required that the exporting country certify that meat was processed so as to achieve an internal temperature of not less than 70°C for 30 minutes, without allowing any alternative treatments. These requirements by India

were not based on the relevant OIE and CODEX standards. The European Union further noted that under the SPS Agreement, import conditions should not be stricter than the measures applicable to the domestic market, and Indian legislation allowed non-heat treated processed pig meat within its domestic market.

3.5. The European Union urged India to bring its measures in line with the international standards or, alternatively, to provide a science-based risk analysis for each of the diseases for which India applied import conditions stricter than the international standards and also for its requirement to import only heat-treated processed pork meat. The European Union also urged India to recognise the principle of regionalisation, which was effectively applied in the European Union, instead of requiring country freedom for certain diseases.

3.6. India noted that a technical expert committee had been established within the Department of Animal Husbandry, Dairying and Fisheries. This committee reviewed all the technical aspects concerned in order to reach a decision on the relevant veterinary certificates. One meeting of the committee had already been held and another was scheduled to take place.

### **3.1.3 Korea's import restrictions on fishery products with regard to radionuclides - Concerns of Japan**

3.7. Japan expressed concerns regarding Korea's fishery import restrictions, including a ban on imports from eight prefectures and additional testing and certification requirements in all cases where radioactive Cesium was detected, even in quantities below the Korean limit of 100 Bq/kg. This requirement applied exclusively to Japanese products; Korean and other trading partners' products could be distributed as long as the radioactive Cesium level remained below 100 Bq/kg.

3.8. Japan reiterated that contaminated water at the Fukushima Daiichi nuclear power station had been detected only within an area of 0.3 square kilometres inside the port, and that the problem of contaminated water should not be equated with the safety of Japanese fishery products. Japan's central and local governments had taken measures to prevent the distribution of fishery products where required, and the amount of samples exceeding the limit of 100 Bq/kg had drastically decreased both in the Fukushima prefecture (from 53% in March/June 2011 to 2.2% in July/September 2013) and elsewhere (from 6.5% to 0.4% during the same periods). Japan recalled that SPS measures must not arbitrarily or unjustifiably discriminate between trading partners and urged Korea to provide a scientific basis for its measures or explain concretely how the available scientific evidence was insufficient to carry out a risk assessment.

3.9. Korea indicated that its measures were in accordance with Article 5.7 of the SPS Agreement, as a result of insufficient scientific evidence and the potentially far-reaching cumulative effects of radioactive contamination on human health. Korea was reviewing the information provided by Japan but needed more time to come to a final determination.

### **3.1.4 China's import policy on swallow nests – Concerns of Indonesia**

3.10. Indonesia raised concerns regarding the effects that China's registration requirements for foreign food-producing enterprises, notified in August 2011 (G/SPS/N/CHN/472), had on its exports of edible bird nests. Indonesia, the world's largest bird nest producer, had signed a protocol with China on the inspection, quarantine and hygiene requirements for the importation of bird nest products in April 2012. Since then, Indonesia had striven to comply with the Chinese requirements, among others on traceability. The Indonesian Agricultural Quarantine Agency had conducted feasibility assessments in eight bird nest processing plants, and invited the Chinese authorities to conduct a verification visit. No response had been received from China. Indonesia characterized China's registration requirements as complicated and burdensome, and urged China to bring its measures in line with WTO rules.

3.11. China noted that since the conclusion of the protocol, it had actively engaged with Indonesia, urging it to comply with the protocol and to inform China accordingly. China invited Indonesia to provide a veterinary and sanitary certificate model, certificates of origin, and documents on its control systems in order to resolve the problem as soon as possible.

### **3.1.5 Russia's non-recognition of testing laboratories for meat products - Concerns of India**

3.12. India raised its concern regarding the inability to export bovine meat and agricultural products to Russia. It had requested Russian veterinary experts to inspect Indian units and laboratories, and a delegation from the Customs Union Authorities of Kazakhstan (SVPSGO) had conducted site visits, including to meat-processing units, in October 2011. India had complied with all of the requirements identified in the report issued as a result of such visits and sent all the relevant information to the SVPSGO in January 2012. However, Russia had still not recognised the units and laboratories. Consequently, the export of bovine meat and egg powder to Russia had not resumed, although India's track record in the export of boneless bovine meat to over 16 countries worldwide was unblemished. India appreciated Russia's willingness to hold bilateral consultations and expert-level discussions.

3.13. Russia stated that the inspections identified a number of inconsistencies with respect to sanitary and veterinary requirements. Given such inconsistencies and the epizootic situation in India, it was premature to schedule expert consultations. Russia was ready to engage in further bilateral consultations to find a mutually beneficial resolution.

### **3.1.6 Import restrictions by China, Japan and South Africa on beef due to BSE – Concerns of Brazil**

3.14. Brazil raised concerns regarding import restrictions by China, Japan and South Africa on beef, stemming from a notification of Bovine Spongiform Encephalopathy (BSE) by Brazil in December 2012. Brazil had provided detailed information on the unique case and the implemented risk mitigation procedures to the OIE and all concerned WTO Members, including China, Japan, and South Africa. The case had affected only one native cow which had not entered the food or feed chain, and the OIE had maintained Brazil's classification as a country with negligible risk for BSE. Brazil believed the import restrictions infringed Articles 2, 3, 5, 8, 13, and Annex C of the SPS Agreement, and urged China, Japan and South Africa to withdraw their restrictions.

3.15. China noted that the BSE case had occurred in 2010 but that Brazil had failed to notify China in accordance with a bilateral protocol signed by the two countries, which required immediate notification of any animal disease of quarantine significance, including BSE, and subsequent suspension of exports. According to China, there was no accurate pathogenesis of atypical BSE and the risks associated with the outbreak were unclear. China expected further information from Brazil in order to complete a risk analysis.

3.16. Japan noted that its Food Safety Commission had conducted a risk assessment based on the BSE-related scientific information submitted by Brazil, but would need additional information on BSE measures in Brazil. Japan would move forward as expeditiously as possible once provided with the requested information.

3.17. South Africa explained that it had forwarded a proposed health certificate for consideration by the Brazilian authorities in October 2013.

3.18. Brazil noted that it had provided and would continue providing all the information requested by China, especially as regards the bilateral protocol between the two countries. Brazil thanked South Africa, and hoped for a prompt lifting of the restrictions.

### **3.1.7 Saudi Arabia's import conditions on poultry - Concerns of the European Union**

3.19. The European Union raised concerns regarding a poultry import ban and general unjustified delays and unclear import conditions in Saudi Arabia. The poultry ban had been maintained for more than ten years without scientific justification, despite positive steps towards a solution. Saudi Arabia referred to national and Gulf Cooperation Council (GCC) standards, but did not specify which rules applied to the import of specific products, including poultry or poultry meat. The "GCC Guide for Food Import Control" referenced by Saudi Arabia had only been notified to the WTO in draft form, in 2011. The European Union also considered that Saudi Arabia's approval fees exceeded the related costs, noting that Saudi Arabia required EU member States to cover all the costs of inspection visits, and also to pay a fee of EUR 20,000 per establishment.



3.20. Saudi Arabia expressed its willingness to work with the European Union towards a solution, and noted that lifting the ban was a matter of priority.

### **3.1.8 Japan's new quarantine requirement for blueberries and delays in responding to proposed quarantine treatments - Concerns of Argentina**

3.21. Argentina raised concerns regarding the interruption of its fresh blueberry exports to Japan in November 2010, when the Japanese Ministry of Agriculture had imposed the requirement of a negotiated quarantine treatment for fruit flies. Argentina had submitted technical information in April 2011, and in October 2012 it had proposed methyl bromide as a quarantine treatment for fruit fly. In January 2013, Japan had indicated that it would carry out a pest risk analysis on the basis of the information provided and would evaluate the proposal of methyl bromide quarantine treatment for fruit fly and inform Argentina of its results. In June 2013, Argentina requested to know the state of progress of the evaluation of said quarantine treatment, expecting a prompt answer. Noting the importance of blueberry farming in domestic employment, income and value of Argentine fruit exports, Argentina asked Japan to give priority to the proposed quarantine treatment.

3.22. Japan explained that it had imposed an import ban on blueberries based on a pest risk analysis, and that its competent authorities were in the process of examining Argentina's proposed quarantine treatment. Japan had 138 outstanding requests with regard to plant quarantine, and sought understanding for its current situation.

## **3.2 Issues previously raised**

### **3.2.1 EU maximum residue levels of pesticides - Concerns of India (No. 306)**

3.23. India reiterated its concern over EU maximum residue levels (MRLs) of pesticides claiming that the EU MRLs for imported foods and agricultural products did not follow international standards and had no scientific basis, and were therefore in contravention of the SPS Agreement. India requested that the European Union provide scientific justification for its MRLs and that it adjust those levels that were not scientifically justified. India also requested an update with regard to tricyclazole.

3.24. Argentina shared India's concerns and highlighted the work undertaken by Codex on pesticides. There was a need to base new MRLs on Codex standards. Establishment of MRLs of pesticides without a scientific basis was in contradiction to the SPS Agreement and has become an unnecessary restriction on trade damaging agricultural exporting countries, such as Argentina.

3.25. The European Union stated that its policy regarding pesticides was to provide a maximum level of safety for European consumers while remaining open towards its trading partners. The EU system was transparent and had proved to be effective as the European Union remained the world's largest importer of agri-food products. India's allegations were evidently unfounded and incorrect as could be seen by virtue of the increase in rice exports from India to the European Union, which had doubled in tonnage in the past year. The European Union was open to continue cooperating closely with India and to consider any specific requests to modify the MRLs for pesticides used in India, insofar as those pesticides had been proven to be safe on the basis of adequate scientific data.

### **3.2.2 Indonesia's port closure (G/SPS/N/IDN/53, G/SPS/N/IDN/54 and G/SPS/N/IDN/54/Corr.1) – Concerns of China (No. 330)**

3.26. China noted that since December 2011, Indonesia's Department of Agriculture had issued successive ministerial orders (G/SPS/N/IDN/48, G/SPS/N/IDN/49, G/SPS/N/IDN/53, G/SPS/N/IDN/54) amending the inspection and quarantine requirements for imported fresh fruits and vegetables. China asserted that these orders, requiring accreditation of control systems, limiting the number of import licences, requiring that exports come from zones free from fruit fly, and limiting the point of entry to specific ports excluding Jakarta's main port Tanjung Priok, seriously affected its fruit and vegetable exports. The two countries had traded for years on the basis of established inspection and supervision systems, and Indonesia had never informed China about any pest- or food safety- related problems. China had proposed a mutual recognition

agreement on the inspection and quarantine of fruits and vegetables to Indonesia on 25 April 2013, and urged Indonesia to study it as soon as possible. China also requested Indonesia to remove quota limitations on Chinese fruits and vegetables, and to provide scientific justification for its measures.

3.27. Chile noted that it had engaged in bilateral negotiations with Indonesia, and hoped that this issue would be resolved before the next meeting of the Committee.

3.28. The European Union shared the concerns raised by China, noting that trade in certain horticultural products continued to be unnecessarily hampered because of the closure of several entry points, including Tanjung Priok. The opening of that port to some countries based on receipt of information on their food safety and plant health conditions, but not to others, appeared discriminatory. The European Union had provided all the requested information on the EU food safety and plant protection systems as requested, but Indonesia continued to maintain the entry restriction.

3.29. Indonesia recalled several pest outbreaks it had suffered in the past, including papaya infestation by *Paracoccus sp.* and spread of *Globodera rostochiensis* in potato, and noted that in addition to pests, some imported fresh produce posed a food safety threat, exceeding permitted mycotoxin and chemical limits. Indonesia's quarantine facilities were limited and the workload too great for plant quarantine officers. Tanjung Priok port was undergoing necessary facility improvements in an effort to mitigate SPS risks. This risk mitigation, Indonesia stressed, was carried out in accordance with Article 6 of the SPS Agreement. Indonesia was not closing the port completely, but opening it under certain conditions. It had also amended its horticultural and animal product regulations, eliminating certain verification requirements in the country of origin, and requiring that registered importers should import at least 80% of the volume of their import permit to maintain their status as a registered importer.

### **3.2.3 Japan's restrictions related to foot and mouth disease – Concerns of Argentina (No. 332)**

3.30. Argentina recalled that it had first raised this concern at the 54<sup>th</sup> session of the Committee in July 2012 (G/SPS/R/67). It referred to the position taken at that session, and reiterated its call for a prompt solution to the matter.

3.31. Japan explained that it was completing an import risk analysis in accordance with the standard approval procedures, consisting of 12 steps. Argentina's beef was at step three and Japan was waiting for additional inputs from Argentina.

### **3.2.4 Viet Nam's ban on offals – Concerns of the European Union and the United States (No. 314)**

3.32. The European Union welcomed the lifting of Viet Nam's ban on red offal, and appreciated information from Viet Nam indicating that the ban on white offal had also been lifted. However, Viet Nam had imposed several new import conditions on white offal, including additional registration requirements and a restriction to use only three points of entry into the country. Viet Nam had not notified trading partners about this change in import conditions, which the European Union considers overly burdensome and lengthy.

3.33. The United States also thanked Viet Nam for its announcement on removing trade restrictions on offal, but expressed concern at possible additional conditions and attestations required by Viet Nam for specific products. The United States requested a complete list of the Vietnamese import requirements and the scientific justification to support those requirements.

3.34. Australia and Chile shared the concerns expressed by the European Union and the United States, and urged Viet Nam to work with trading partners to establish import conditions based on scientific principles.

### **3.2.5 Turkey's requirements for importation of sheep meat - Concerns of Australia (No. 340)**

3.35. Australia reiterated its concerns regarding Turkey's requirements for the import of sheep meat. Australia had been seeking information from Turkey regarding its import measures since April 2011, but despite raising this concern at the past three SPS Committee meetings, it had yet to receive a response. Australia was a safe and reliable supplier of sheep meat to some 100 countries and had consistently met all relevant international SPS measures for such trade. Turkey's measures appeared to contravene its obligations under the SPS Agreement, including Articles 2 and 7 and Annex B. Australia looked forward to a resolution of this issue.

3.36. Turkey responded that it was in the process of aligning its food safety legislation with that of the European Union. In this context Turkey had so far prepared certificates for beef, bovine meat, livestock and fishery products, while a uniform model certificate for other animal-origin products, including sheep- and goat-meat, was under process.

### **3.2.6 Malaysia's import restrictions on pork and pork products – Concerns of the European Union (No. 323)**

3.37. The European Union continued to be confronted with trade restrictions on pork and pork products in Malaysia despite having raised its concern at prior meetings of the Committee. Malaysia imposed animal health related conditions for several animal diseases which deviated from OIE standards and were not based on a risk assessment. The process of approval for foreign abattoirs was unnecessarily lengthy and burdensome, and applications for approval were often not addressed by the Malaysian Department of Veterinary Service. In addition, EU exporters were confronted with a non-automatic import permit system which was unnecessarily lengthy and burdensome, and not transparent. The European Union was pleased to report that Malaysia had expressed its commitment to find a solution to the matter during a bilateral meeting held earlier during the week.

3.38. Malaysia noted that there had been bilateral discussions and positive developments on both sides, and hoped to find a rapid solution to the issue.

### **3.2.7 Japan's restriction on shrimp due to anti-oxidant residues - Concerns of India (No. 342)**

3.39. India noted that Japan had been examining consignments of shrimp for ethoxyquin levels since August 2012. India asserted that the ethoxyquin levels in these consignments was extremely low, ranging from 0.02 ppm to 0.05 ppm, according to the information provided by the relevant Japanese authority. India noted that Japan had fixed a provisional MRL of 0.01 ppm on finfish claiming that they did not have sufficient data to fix a final MRL on fish. India suggested that a provisional MRL be fixed also for shrimps based on preliminary study results, until reliable data could be obtained. India urged Japan to expedite their consideration and to indicate the timeframe for a final decision on this issue.

3.40. Japan stated that it had been conducting risk assessments and, in the process, the concern about genotoxicity of ethoxyquin had been raised. Japan had prepared a draft assessment report which it had made available to the public, and it was in the process of evaluating the comments submitted. Japan had proposed a draft MRL of 0.02 ppm based on the assessment report. Japan was willing to continue working with India on this issue through bilateral channels.

3.41. Codex informed the Committee that ethoxyquin had been placed on Codex's priority list for evaluation and thus would be considered at the international level.

### **3.2.8 China's quarantine and testing procedures for salmon – Concerns of Norway (No. 319)**

3.42. Norway recalled that it had raised this concern several times in the past, however, the quarantine and testing measures introduced by China in 2010 were still applied to Norwegian salmon. Norway repeated the need for technical consultations and hoped to see a prompt positive resolution to this issue.

3.43. China explained that its entry-exit inspection and quarantine services had detected pathogenic microorganisms and excessive veterinary drug residues in salmon, including frozen salmon. Upon risk analysis, experts had considered that the pathogenic bacteria found in the ready-to-eat frozen salmon posed a substantial threat to consumer health. As such, since 2011, the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) had enhanced inspection and quarantine measures on imported salmon from all countries and areas. China expressed concern about infectious salmon anaemia (ISA) that had intensively occurred in Norwegian salmon since 2012, and feared that Norwegian salmon could be the source of *Listeria monocytogenes*. China stated its willingness to continue communications with the Norwegian authorities.

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

3.44. The European Union highlighted the importance of this concern as it related to one of the basic requirements under the SPS Agreement: that SPS measures adopted by Members be based on the relevant international standards. The European Union appreciated Singapore's relaxation of its BSE-related import measures and encouraged Singapore to bring these conditions further in line with the OIE standards and to notify these changes so that trading partners could provide comments. Unjustifiable trade restrictions were still in place in a number of other countries and the European Union urged China to base its measures on the OIE standards and lift the ban on EU beef. The European Union welcomed the on-going work in Korea and urged Korea to deal swiftly with all EU applications. The US and Australia's on-going process to align their BSE import conditions with OIE standards was appreciated and closely followed by the European Union. The European Union called on the United States and on Australia not to delay these processes further and repeated its request that trade should now start. The European Union also noted in this regard that it had been three years since it had submitted its application to Australia and that Australia had not provided any scientific justification for the delay in finalizing its risk assessment. The European Union called upon Australia to finalize the process, which should lead to effective market access without undue delays.

3.45. China noted that the latent period of BSE was long and as there were no cases in China, an import prohibition of bovine cattle and related products was in place as a safety measure. According to Chinese legislation, it could conduct inspection and quarantine activities only after the BSE ban on certain EU member States had been lifted. Since 2010, OIE had released reports that a number of EU member States (France, Portugal, Spain, the United Kingdom, etc.) still suffered from BSE and China noted that these had not applied for the ban to be lifted in China. Technical exchanges, including a seminar on BSE jointly held with the European Union, and the assignment of a technical person to participate in BSE prevention training had taken place. In March 2012, EU beef exports had been discussed at the 7<sup>th</sup> China-EU Summit. Although the experts on both sides had not reached consensus, a joint expert team had been established with relevant members in order to overcome technical issues.

3.46. Korea acknowledged the European Union's concern and emphasized that its government had been conducting import risk analysis on some EU member States' beef. Responses to questionnaires were awaited so as to proceed with the IRA process in a timely manner while conducting a close dialogue with Members in this regard.

### **3.2.10 Indonesia's import restrictions on poultry meat - Concerns of Brazil (No. 286)**

3.47. Brazil reiterated its concerns over Indonesia's restriction on Brazilian poultry meat exports. Brazil exported poultry products to more than 170 countries and met all the relevant OIE requirements. In May 2009, Brazil had expressed its interest in exporting poultry meat to Indonesia and had since held bilateral consultations with Indonesian sanitary authorities. In October 2009, Brazil had raised a concern about this prohibition, which did not seem to have scientific basis, and had reiterated that concern in 2011. Despite several bilateral meetings since then, import restrictions on poultry meat remained. Brazil submitted specific questions on Indonesia's recently enacted regulations in the context of the difficulties faced by Brazil's poultry meat exporters in general, and chicken meat exporters in particular, and requested that Indonesia confirm that the new regulations did not provide for legal restrictions to poultry imports. Furthermore, Brazil requested Indonesia to provide an exhaustive list of regulations applicable to imports of poultry, and explain the reasons for delays in the approval procedures of health certificates for poultry meat.

3.48. Indonesia reiterated that, in principle, it did not prohibit poultry meat imports provided safety and halal food requirements were met. Revised regulations setting out the requirements for poultry meat imports rules had been approved in 2013. Under the revised legislation, exporting countries must be free from highly pathogenic avian influenza (HPAI), Newcastle disease, and duck viral hepatitis, for a period of at least 90 days. The exporting poultry establishments must also implement a halal food system, which meant that the establishment exclusively produced halal products. The halal requirement applied to all slaughterhouses in the country of origin and imports of poultry products must pass the document inspection and field certification on the implementation of animal health systems and safety assurance for animal products, both at the level of establishments and country of origin. Indonesia assured that it would continue to work closely with Members to overcome this issue.

### **3.2.11 Japan's MRLs applied to sesame - Concerns of Paraguay (No. 321) (G/SPS/GEN/1272)**

3.49. Paraguay reiterated its concerns over Japan's application of MRLs to sesame and maintained that uniform limits were inconsistent with the SPS Agreement since they were not based on scientific principles and were maintained without sufficient scientific evidence. Carbaryl and Imidacloprid were not included in the MRL table for sesame prepared by the Japan Food Chemical Research Foundation. Paraguay understood that under Japanese regulations, the uniform tolerance limit for pesticides not listed in such table was of 0.01 mg/kg, however, Japan allowed higher tolerance limits for other imports, such as sunflower seed, rapeseed, and other oilseeds. Paraguay believed that the limits were arbitrary and inconsistent with the concept of appropriate level of protection, as higher limits existed for routinely consumed products such as rice and spinach. Codex has not established MRLs for sesame, but has established limits for Carbaryl and Imidacloprid in food products consumed by humans, including several products classified in the oilseed group together with sesame. Some demanding markets, such as the European Union, had set tolerance limits at 0.05 mg/kg. Paraguay had taken steps to ensure the quality and safety of sesame, by ensuring that exports were accompanied by the relevant laboratory reports indicating that they complied with Japanese regulations. Paraguay appreciated the bilateral meeting with Japan and hoped that a satisfactory solution would soon be found.

3.50. Ecuador shared Paraguay's concern. When international standards did not exist, the relevant SPS measures must be based on scientific evidence. The approach of applying MRLs to positive lists was not in line with the SPS Agreement and had negative consequences for exports of cocoa from Ecuador. The burden should not be on the exporter to verify that MRL limits were safe as this directly contravened the SPS Agreement. Ecuador expressed its willingness to continue consultations on this issue.

3.51. Japan reiterated that it set individual MRLs for substances in food based on scientific data. A scientific justification was provided by the Food Safety Commission on each occasion, before any MRL was fixed, and Japan notified Members promptly before doing so. MRLs were set based on scientific data, such as residue trial data, using Good Agricultural Practices; meaning that even if the same pesticide were used, the MRL varied depending on commodities and environments. Japan claimed that this practice followed the international standard. However, the system prescribed that when there was no use of a substance in Japan, and no request had been submitted by a Member for an import tolerance to be set, and there was no relevant international standard, the MRL was set at the uniform level of 0.01 ppm. Japan did not use these pesticides for sesame, thus it was not familiar with the international standards on Carbaryl and Imidacloprid. Japan had requested Paraguay to submit scientific data, including residue trial data, so that the necessary scientific assessments could be carried out. Japan was able to detect Carbaryl and Imidacloprid at 0.01 mg/kg. Japan further expressed its availability to expand on any additional information such as method of analysis or sampling plans used in import checks.

### **3.2.12 Application and modification of the EU Regulation on Novel Foods - Concerns of Peru (No. 238)**

3.52. Peru reiterated its concern over the EU Regulation on Novel Foods, as it restricted the access of traditional biodiversity-based products into the European market. Peru had previously shown the negative effects of this measure on exporters. The proposed amendment of Regulation No. 258/97 would exclude from its scope traditional biodiversity-based products which had previously been safely consumed in their country of origin. The aim of this was to facilitate the

export of these products from developing countries. Peru requested information on the status of the proposed amendment to Regulation No. 258/97, which would be an important step to access the European market.

3.53. Chile, Colombia, Costa Rica, Cuba and El Salvador expressed their support for Peru's concerns.

3.54. The European Union confirmed that the European Commission intended to present a new Novel Food proposal by the end of 2013. This would take into account the overarching agreement reached by the EU co-legislators on future measures applicable to Novel Foods, including those which were traditional in third countries. The proposal would streamline the approval process and provide specific measures for traditional foods from third countries, intended to ease their access to EU markets for the benefit of consumers whilst ensuring their safety. The draft proposal would be circulated to all Members through notifications under the SPS and TBT Agreements to allow for any comments and concerns to be well taken into account.

### **3.3 Consideration of specific notifications received**

#### **3.3.1 Turkey's prohibition of certain food additives in traditional foods (G/SPS/N/TUR/31) - Concerns of Japan**

3.55. Japan expressed concerns regarding Turkey's new measures which prohibit the use of several additives in some of its traditional foods. Recognizing the importance of traditional foods, Japan noted that Turkey's regulations do not provide a description of kofte. Japan requested that Turkey provide a scientific justification, in terms of food safety, for the prohibition of the use of glutamic acid which is listed in table 3 of the Codex General Standard for Food Additives. If the objective of the prohibition was to preserve traditional culture, then Turkey should bring this matter to the attention of the TBT Committee.

3.56. The European Union also indicated its serious concerns with respect to Turkey's new measures on food additives, highlighting procedural and content-related shortcomings. Furthermore, Turkey did not provide a meaningful opportunity for trading partners to comment, since the measures were notified after their entry into force. The European Union urged Turkey to notify its measure under the TBT Agreement and to clearly define which products fell within the category of traditional products. The European Union also questioned Turkey's claims that its new requirements on food additives complied with EU legislation and that they were in line with the CODEX General Standards.

3.57. The United States expressed its support for the statements made by the European Union and Japan. Chile also shared Japan's concern and underscored the importance of following international standards and of providing 60 days to comment on notifications.

3.58. Turkey recalled that it had notified its new regulations under G/SPS/N/TUR/31. As a candidate country to the European Union, Turkey had aligned its animal and plant health legislation so as to comply with the EU regulations on food additives. However, additional provisions covering traditional Turkish products had also been introduced. This was done in order to protect the originality of these products, taking into consideration consumption habits and traditional ingredients. Some of the additives prohibited for use in these traditional products were listed in annex 6 of the Codex General Standard for Food Additives. The traditional products themselves contained glutamic acid as part of their own substances and did not require glutamic acid as an additive. The products were specific to Turkey and should not differ from the familiar taste nor cause a consumer reaction in the domestic market. Additionally, Turkey reported that monosodium glutamate was prohibited in fermented Turkey sausages and pastrami. With regard to bread, any food additive other than ascorbic acid was prohibited in products. Additives would be permitted for products which were subject to international trade in order to protect their specialties. Turkey's regulation generally complied with the EU regulation, with the following exceptions: (i) some food additives were banned in some traditional foods; (ii) no food additives could be used in non-pre-packaged breads; (iii) pig origin additives could not be used in foods, food additives, food enzymes and food flavourings in consideration of religious sensitivities (iv) the origin of the food additives must be stated on the labels to take into account the preferences of

vegetarians; and (v) if the additive was of animal origin, the animal name must be stated on the labels.

### **3.4 Information on resolution of issues in G/SPS/GEN/204/REV.13**

3.59. The European Union reported that nine STCs had been resolved given that the measures in question were no longer considered by the European Union as barriers to trade. These were detailed in G/SPS/GEN/1269. The European Union encouraged all Members to regularly update the list of STCs previously raised in the Committee so that updated information would be reflected in the Annual Report.

3.60. Argentina reported that STC No. 187 regarding restrictions related to foot and mouth disease had been settled with Panama.

3.61. Following the June meeting, the Secretariat had contacted all Members who had raised STCs since 1995 but for which no resolution had been reported. 38 Members had been contacted, of which 14 had responded and provided information on the status of these trade concerns. Members had identified 25 trade concerns that they considered to be resolved and 10 that were partially resolved. A partially resolved issue was one that had been raised by more than one Member, but where not all Members reported the issue to be resolved. Or the issue related to a number of measures or products and the Member which raised the concern reported that a resolution had been found for only some of the measures or products concerned. The Secretariat provided an updated list of all STCs that had been resolved, which would be reflected in the SPS Information System (IMS).

## **4 OPERATION OF TRANSPARENCY PROVISIONS**

4.1. The Secretariat recalled that it no longer produced paper copies of the contact lists of National Notification Authorities and National Enquiry Points, but the lists were constantly updated and available through the SPS Information Management System (IMS) (<http://spsims.wto.org>). Members could also generate a monthly summary list of notifications through the SPS IMS. The listing of all documents and notifications issued in 2012 by Members, Observers and the Secretariat had been circulated as G/SPS/GEN/1241 and G/SPS/GEN/1241/Corr.1.

4.2. Interested delegates could subscribe to any one of three e-mail lists to receive SPS-related information and documentation from the Secretariat. A publically available list received all unrestricted SPS documents, whereas a second list received all unrestricted documents other than notifications. The third list was for SPS delegates only, for the transmission of restricted documents, communications from the Chair, faxes, room documents and other non-public documentation. Documents were provided through the various e-mail lists in the original language in which they were submitted by Members, and translations of these documents were accessible through the SPS IMS or WTO's Docs-on-line. Members interested in receiving documentation via e-mail from the Secretariat should ensure the e-mail addresses provided remained correct.

### **4.1 Annual Report on Implementation of the Transparency Provisions (G/SPS/GEN/804/REV.6)**

4.3. The Secretariat noted that the number of notifications had increased in 2013 rebounding from the dip in 2010. Developing country Members had submitted an increasing number of notifications which accounted for approximately 63% of total notifications in 2013. LDCs had also submitted more notifications, which accounted for 2.8% of the total. The overall ranking of the Members which had submitted the highest number of regular notifications had remained stable since 1995. As regards emergency notifications, the Philippines had taken the lead, followed by Russia and Albania. More Members were submitting notifications to inform trading partners when they are applying measures in line with international standards, in line with the Committee's recommendations. The number of notifications in the past year pertaining to measures in conformity with international standards had increased to 81%, compared to 28% on average in the previous four years. For emergency notifications, those indicating conformity with international standards had increased from 60% to close to 97%. The Secretariat also noted that a growing number of Members were using the SPS on-line system for submitting notifications and encouraged all Members to use this mechanism.

---

## 5 IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

5.1. No Member provided information under this agenda item.

5.2. The Secretariat drew Member's attention to events linked to special and differential treatment. The Committee on Trade and Development was organizing a workshop on the effects of non-tariff measures on the exports of small and vulnerable economies on 23 October 2013. A background document for this workshop was made available as WT/COMTD/SE/W/28 and the agenda for the meeting was contained in WTO/AIR/4203. The Secretariat further noted the TBT Committee' practice of holding themed informal meetings as part of their regular meetings, including a meeting on special and differential treatment to be held on 29 October 2013.

## 6 EQUIVALENCE - ARTICLE 4

### 6.1 Information from Members on their experiences

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

### 6.2 Information from relevant observer organizations

6.2. No Observer provided any information under this agenda item.

## 7 PEST- AND DISEASE-FREE AREAS - ARTICLE 6

7.1. The Secretariat noted that some Members had submitted documents providing information on the pest and disease status in their territories. These documents had been circulated and Members could access them online. In this regard, the Secretariat recalled that the IPPC and the OIE had recently reminded Members to ensure that this information was also reported to the IPPC or the OIE directly, as there was no mechanism in place to automatically transmit the submitted documents from the WTO Secretariat to the IPPC and the OIE, or vice-versa.

### 7.1 Information from Members on their pest or disease status

#### 7.1.1 Mexico - Information on several pest-free areas (G/SPS/GEN/1265, G/SPS/GEN/1266, G/SPS/GEN/1267, G/SPS/GEN/1268)

7.2. Mexico informed Members of the various communications that had been circulated. These included the declaration of a municipality in Michoacán as an area free from the large avocado seed weevil (*Hellipus lauri*), the small avocado seed weevil (*Conotrachelus aguacatae* and *C. perseae*) and the avocado seed moth (*Stenomoma catenifer*), following the introduction of phytosanitary measures to determine the absence of these pests based on phytosanitary status assessments. Various municipalities in the State of Aguascalientes were declared as areas free from fruit flies of the genus *Anastrepha* of quarantine significance, as the absence of this pest had been determined based on phytosanitary status assessments. A number of communities of the State of Michoacán had been determined to be areas with a low prevalence of fruit flies of the genus *Anastrepha* of quarantine significance.

#### 7.1.2 Paraguay - Information on Huanglongbing in citrus (G/SPS/GEN/1273)

7.3. Paraguay reported that, pursuant to Article 6 of the SPS Agreement, and in connection with the framework for declaration of a phytosanitary emergency, citrus greening disease (HLB), *Candidatus Liberibacter asiaticus*, had been declared a quarantine pest subject to official control throughout the national territory in accordance with ISPM No. 8 "Determination of Pest Status in an Area" and ISPM No. 5 "Glossary of Phytosanitary Terms". The phytosanitary emergency had been notified in document G/SPS/N/PRY/24. Details of the phytosanitary measures introduced to contain the spread of the pest were available at: <http://www.senave.gov.py/hlb.html>.



---

### **7.1.3 Guatemala – Information on areas free of Mediterranean fruit fly (G/SPS/GEN/1274)**

7.4. Guatemala reported that, in the context of its obligations under Article 6 of the SPS Agreement, two Ministerial decisions had been enacted declaring several municipalities free of Mediterranean fruit fly (*Ceratitis capitata* Wied) and other fruit flies of the genera *Anastrepha spp.*, *Dacus spp.* and *Bactrocera spp.* Activities to eradicate these pests had started three decades ago to enable Guatemala to develop fruit for export markets, especially papaya. In order to maintain freedom, Guatemala had established regulations and procedures for various sites and locations which were either free from or had a low prevalence of Mediterranean fruit flies. In this manner, regulations were established to ensure internal quarantine to contain the movement of the Mediterranean fly host fruits and the monitoring of trade of food within Guatemalan territory. In 2011, Guatemala had succeeded in declaring a fruit fly free region, in line with the international standards, which was significant in the production of various types of fruits. Similarly, activities had been developed in the centre of the country, where an area free from the fruit fly had also been declared. Guatemala was working towards creating another fly free area in the south coast. Guatemala underscored the efforts taken by the Ministry of Agriculture, Livestock and Food and the commitment by Guatemala to improve its phytosanitary system.

### **7.1.4 Peru - Freedom from foot-and-mouth disease (FMD) (G/SPS/GEN/1281)**

7.5. Peru reported that there had been no cases of foot-and-mouth disease (FMD) in its territory since July 2004. In 1998, Peru's National Agrarian Health Service (SENASA) had initiated the eradication process by launching the National Foot-and-Mouth Disease Programme (PRONAF) under a project financed by the Inter-American Development Bank (IDB). An emergency health plan had been formulated and border conventions in northern and southern Peru had been strengthened. In order to carry out the programme, the country was divided into three zones, and each zone had been set targets to permit recognition by the OIE.

7.6. In May 2005, the OIE had granted FMD-free without vaccination status to ten regions in Peru. In May 2007, the OIE had granted FMD-free without vaccination status to a further seven regions in the country, which meant that 88.4% of the national territory was internationally recognized as FMD-free without vaccination. In May 2013, the OIE had granted FMD-free without vaccination status to another six regions and FMD-free with vaccination status to three regions. Therefore, all of Peru was now recognized as FMD-free, 98.4% without vaccination and 1.6% as with vaccination.

### **7.1.5 Philippines - Area free from mango pulp weevil and mango seed weevil (G/SPS/GEN/1278)**

7.7. The Philippines noted that two AUSAID-ACIAR funded projects dealing with the Mango Pulp Weevil (MPW) and Mango Seed Weevil (MSW) had been conducted from February 2006 to February 2007 and from March 2007 to February 2008. The detection surveys under these two projects had confirmed the absence of the two pests in Davao del Sur, Sarangani and Samal Island in Mindanao. Quarantine checkpoints had been established in the entry and exit points of these areas to maintain area freedom from these pests and continuous low monitoring surveys were conducted. Both Davao del Sur and Samal Island had been recognized by Australian DAFF as areas free from MPW and MSW in December 2011, and had commenced commercial export of mangoes to Australia in June 2013. Guimaras Island was already established as a source of mangoes for export to Australia.

7.8. A US-funded project to enhance the export competitiveness of Philippine mangoes was conducted from 2006 to 2009. One of the components of the project was the conduct of detection surveys which confirmed the absence of MPW in the Philippines, except Palawan, and the absence of MSW in the whole Philippines. Monitoring surveys for these two pests were continuously conducted. In February 2013, USDA-APHIS had informed the Bureau of Plant Industry (BPI) that the request for Area Freedom Certification for MPW (except Palawan) and MSW for the whole Philippines would be processed using the streamlined system for rule making. Once the United States issued the final rule, mangoes for export to the United States could be sourced from all the Philippines except Palawan. The Philippines was negotiating with Australia to recognize the whole of Philippines, except for Palawan, as MPW and MSW free.

### **7.1.6 Costa Rica - Sanitary status of bovine spongiform encephalopathy (BSE) (G/SPS/GEN/1263)**

7.9. Costa Rica recalled that in May 1999, the OIE had established a procedure for annually categorizing member countries according to their BSE risk based on the provisions of the Terrestrial Animal Health Code. In May 2012, the OIE had updated the procedure for member countries to follow to achieve official recognition and maintenance of status for certain animal diseases. Costa Rica had followed the procedures established by the OIE in order to achieve official recognition with respect to BSE.

7.10. During the 81<sup>st</sup> General Session of the OIE in May 2013, the Assembly had recognized Costa Rica as having a controlled BSE risk in accordance with Chapter 11.5 of the Terrestrial Code. In order to benefit from hard-won achievement by the public and private sector, it was important that this status be recognized, and for this reason, Costa Rica requested that Members implement Article 6 of the SPS Agreement and the guidelines in G/SPS/48.

### **7.2 Information from Members on their experiences in recognition of pest- or disease-free areas**

7.11. Chile reported that it had recently recognized some municipalities of Brazil as areas free from South American fruit fly, and had also recognized the Patagonia region of Argentina as an area free from South American fruit fly.

7.12. Chile further declared its whole territory free from ovine and goat scrapie (Scrapie o Prurigo lumbar) pursuant to resolution No. 4321/2013 of the Agriculture and Livestock Service. Chile had been evaluating the country's disease status for several years, and during this time, no outbreaks had been established.

7.13. Indonesia noted that it had finished a comprehensive evaluation and assessment of the fruit fly *Ceratitis capitata* in Sargodha District of the Punjab province, Pakistan, and that the territory had been declared pest free in kinnow citrus, under Ministerial Decree No. 27-21 of 2013.

7.14. Pakistan highlighted that this recognition by Indonesia would further strengthen the excellent trade relations between the two countries.

### **7.3 Information from relevant observer organizations**

7.15. The IPPC stressed the importance of WTO Members also adhering to their reporting obligations under the IPPC and the OIE.

## **8 TECHNICAL ASSISTANCE AND COOPERATION**

### **8.1 Information from the Secretariat**

#### **8.1.1 WTO SPS activities**

8.1. The Secretariat indicated that since the last Committee meeting, technical assistance on the SPS Agreement had been provided in the following activities: (a) National SPS Seminars in Chile and the Philippines; (b) Workshop on SPS-related Market Access Challenges and Opportunities, held in Geneva; and (c) Regional SPS Workshop for French-speaking African Countries, held in Gabon. The Secretariat thanked Gabon for hosting and collaborating with the regional workshop, and the African Union who funded the participation of several government officials in the workshop.

8.2. The Secretariat indicated that since the last Committee meeting, general training on the SPS Agreement had been provided in the following activities: (a) Introduction Course on LDCs (in French), held in Geneva; (b) Regional Trade Policy Course for Asia-Pacific Countries, held in India; (c) Regional Trade Policy Course for English-speaking African Countries, held in Botswana; (d) Regional Agricultural Workshop, held in Barbados; (e) International Conference on "Trade in Agriculture and Latin America", held in Argentina; (f) SADC Workshop, held in South Africa; (g) American University Washington College of Law Summer Programme on WTO Law, held in

Geneva; (h) Duke University Global Health Programme, held in Geneva; (i) ITC Workshop on the WTO SPS Agreement, held in Bosnia and Herzegovina; (j) a training program organized by the Swedish Development Cooperation Agency, held in Sweden; and (k) a seminar on Codex organized by the Ministry of Rural Affairs in Sweden.

8.3. Upcoming Geneva-based SPS training activities by the WTO Secretariat included: (a) a Regional SPS Workshop for Arab Countries, in Abu Dhabi (4-7 November 2013); (b) SPS national seminars, in Azerbaijan, China, Costa Rica, El Salvador, Haiti, Honduras, and Zimbabwe. National seminars were also being scheduled for Laos and Tunisia, and the Secretariat was considering other requests. More general training on the SPS Agreement would also be provided in an AU-organized SPS Workshop, to be held in Zimbabwe (25-27 November 2013).

8.4. The Secretariat drew Members' attention to the 2013 Advanced Course on the SPS Agreement (7-25 October 2013), held in English in Geneva. This was the ninth consecutive year that the course was offered, and 24 officials from developing and least developed countries were participating. The selection process was based on candidate's qualifications and working experience, with consideration given to candidates from countries which had not been represented in previous editions. The Secretariat thanked the Chair and the delegates who had shared their knowledge and experiences with the Advanced Course, as well as the participating organizations (Codex, IPPC, OIE, ACWL, ITC), and the external consultants, Mr João Magalhães and Mr Kevin Walker. The Secretariat further recognized and thanked those former participants of the Advanced Course who had attended the workshop and had shared their experiences with the current course participants. Many of the former participants had also agreed to act as mentors to continue to provide insights on how they had addressed various SPS implementation related challenges.

8.5. The Secretariat recalled that the e-learning course on the SPS Agreement was available year-round in the three WTO official languages. Further information on SPS-related technical assistance can be obtained on the WTO website (under trade-related technical assistance), or by contacting the Secretariat for additional clarification and assistance.

### **8.1.2 Report of the Workshop on Market Access**

8.6. The Secretariat noted that for the Workshop on SPS-related Market Access Challenges and Opportunities, the 46 funded participants were all former participants in the Advanced SPS Course. A number of the speakers and moderators were former participants, sharing their experiences. The Workshop had also been attended by this year's participants of the Advanced Course as well as other interested delegates.

8.7. The primary objective of the Workshop was to share different experiences in gaining and maintaining market access, among all participants. The sessions focused on the different roles of governments in relation to market access. The Secretariat recalled that eleven.

8.8. Another objective was to obtain feedback from former participants regarding the longer-term impact of the advanced course. One of the special features of this course was that participants developed action plans to work on one aspect of SPS implementation on their countries and shared their report within eight months. While many action plans related to development of national level coordination, transparency, or awareness, some action plans addressed challenges of gaining or maintaining market access. As the previous two workshops focused on the topics of coordination and transparency, the timing was opportune to focus on market access.

8.9. "You make the difference" is the motto of the advanced SPS courses, which encouraged participants to take initiatives, be pro-active and play a leadership role. Almost all speakers highlighted this as one of the key factors in resolving market access issues - someone had to take the initiative and try to make it work.

8.10. Session 1 of the workshop had focused on the roles of officials within their governments to enhance market access. Session 2 had dealt with collaboration between the public and private sectors in enhancing SPS-related market access, and session 3 focused on the role of technical cooperation. A summary report of the workshop was subsequently circulated as G/SPS/R/72, and all the presentations were posted on the SPS gateway page ([http://www.wto.org/english/tratop\\_e/sps\\_e/sps\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/sps_e.htm)).

### 8.1.3 STDF (G/SPS/GEN/1279)

8.11. The STDF Secretariat reported on its working group meeting, where funding had been approved for four project preparation grants equalling roughly \$200,000 USD and for one project grant of \$1,000,000 USD. In addition, approval was obtained to start work on new SPS-themed case stories and good practices; so as to feature them on a new STDF film.

8.12. The STDF Secretariat highlighted that STDF had supported the development of a decision-support tool, based on Multi Criteria Decision Analysis (MCDA), to help developing countries prioritize options to strengthen SPS capacity for market access. On 24-25 June 2013, the STDF had organized a workshop on the use of this tool. The workshop was attended by 44 participants, representing STDF partners, donors, developing country experts, observer organizations, and beneficiaries who had applied the tool.

8.13. The STDF Secretariat noted that STDF had initiated research work to analyse the implementation of SPS measures in the context of trade facilitation (defined as the simplification, harmonisation, standardisation and modernisation of trade procedures). This work encompasses regional research in selected countries and sub-regions in Africa, Asia and Latin America. The aim was to identify, analyse and foster dialogue on experiences, lessons and good practices to improve the implementation of SPS controls in a way that facilitated safe trade. The work was being carried out in collaboration with the Inter-American Development Bank (IDB), TradeMark Southern Africa, and the Common Market for East and Southern Africa (COMESA) Secretariat. Reports for all three regions were expected to be finalized by mid-2014.

8.14. On the margins of the June 2013 SPS Committee meeting, the STDF, in conjunction with the IPPC and OIE, had presented the finalized STDF study on International Trade and Invasive Alien Species. A first draft of the study had been prepared for the 2012 STDF Global Seminar on this topic and later revised based on the discussions and conclusions of the seminar. The study reviewed and analysed key concepts and principles relevant to IAS and international trade in the context of the SPS Agreement and the Convention on Biological Diversity (CBD), and in relation to the relevant work of the IPPC and the OIE. It also considered various initiatives to enhance capacities for managing the entry and spread of IAS (including plant pests and animal diseases), reviewed common challenges and good practices, and made a number of targeted recommendations.

8.15. Among the various recommendations in the study, one in particular was directed to the SPS Committee:

"The SPS Committee should consider developing guidance regarding the relationship between IAS and the SPS Agreement, for the purpose of providing legal clarity and firmly embedding IAS into the global trade regulatory framework. Such guidance should seek to clarify, *inter alia*, notification requirements for SPS measures taken by national environment/ biodiversity institutions to prevent the introduction of IAS other than animal and plant pests or diseases."

8.16. Other information on the seminar, including the presentations, a short two-page STDF briefing note and other relevant documentation, was available on the STDF website (<http://www.standardsfacility.org/en/TAIAS.htm>).

## 8.2 Information from Members

8.17. Chile reported on national SPS training activities provided by the WTO to the public and private sectors. The public sector activity entailed participation of seasoned regulators and negotiators on the subject, who had also completed the SPS on-line course. This workshop allowed for an in-depth discussion of issues and possible resolutions. Another activity has been offered to industry participants, particularly exporters in the food and fruit sectors. Chile thanked the Secretariat for delivering these two national workshops in September.

8.18. The Philippines thanked the Secretariat for providing a seminar in Quezon City, in July 2013, that was a follow up to a national SPS workshop held in 2012. A national SPS workshop for regional regulatory officials had also been held in Cebu, from 31 July to 2 August. These SPS

events were designed to support the Philippines' efforts to develop a coherent rules-based national SPS regulatory process. The Philippines offered to share its experience and assist Members in establishing and strengthening capacity in the SPS area (G/SPS/GEN/1275).

8.19. Benin reported on two workshops that successfully trained their own officials on SPS measures, as part of the implementation of the Action Plan elaborated by a former participant in the SPS Advanced Course.

8.20. Burkina Faso indicated that the technical assistance it had received in November 2012, which targeted both public and private sectors, proved to be extremely beneficial for those involved in the SPS activities. A workshop had been scheduled for 12-13 November 2013 to allow members of the national SPS committee to continue discussing SPS matters.

8.21. Madagascar reported on the extremely positive effects of the capacity-building programmes (at national and regional levels) in raising awareness of various stakeholders involved in SPS matters. This also helped in making progress in the SPS negotiations within the framework of the Economic Partnership Agreement between the East African group and the European Union. As a result, the embargo on animal products had been lifted and Madagascar could benefit from a capacity-building programme funded by the European Union for people involved in food safety systems.

8.22. Senegal reported on a two-day national workshop in October 2013, financed by the Ministry of Trade, to train public and private actors on the Agriculture and SPS Agreements. A draft text with regard to the good functioning of the SPS Agreement was in preparation and should be adopted on the occasion of a workshop to be held in Dakar, 11 to 13 December 2013, funded by the African Union.

8.23. Togo announced that it would host a workshop, financed by the African Union, on the implementation of the national plan, pursuant to which a programme would be adopted to manage SPS issues. Togo was also planning to request WTO assistance in 2014 to train the members of the national SPS Committee.

8.24. El Salvador and Honduras conveyed their gratitude to the Secretariat for its continuous support in relation to the implementation of technical cooperation and assistance. Two national workshops were planned, as follows: (i) one in Honduras at the beginning of November 2013; and (ii) one in El Salvador.

8.25. The Secretariat reminded Members that although the current policy of WTO was to provide national workshops on request to developing and LDC Members, this was subject to resources available in the Global Trust Funds and to staff resources. The earlier Members submitted their requests, the easier it was for the Secretariat to find a mutually convenient date to provide the training. The reported examples of internal national training, or training provided through regional bodies, were a very encouraging development. Copies of the materials, publications, and booklets developed by the Secretariat could be made available to Members for their national training events.

### 8.3 Information from Observers

8.26. The IPPC reported that its phytosanitary information webpage contained a substantial number of free resources, including a manual on phytosanitary market access. The IPPC Capacity-Development Committee had held a series of meetings to discuss, *inter alia*, the possibility to become an official subsidiary body of the IPPC.

8.27. The OIE presented a document on the progress of its global initiative under the framework of the Performance of Veterinary Services (PVS) Pathway and indicated that the sixth edition of the revised PVS tools was now available on its website. Also available was a new tool for the evaluation of aquatic animal health services (G/SPS/GEN/1277/Rev.1).

8.28. The Codex referred to a paper prepared for the CAC which identified all the activities of the FAO and WHO relating to training in the food safety area and available tools. The Codex was proceeding with the final evaluation of its trust fund, which would normally come to an end in

2015. Codex had started to reflect on a successor initiative. A workshop was organized in Poland on Codex participation and how to improve cooperation in the region with the Regional Office for Europe of FAO and WHO. The workshop, held on 16 September 2013, was intended for countries from the European region including all countries in transition. WHO was planning to hold a workshop in New Delhi from 23 to 25 October 2013 for the Asian region, in cooperation with the government of India, on participating facilitation of the region in Codex (G/SPS/GEN/1288).

8.29. IICA reported on the activities held in the framework of the Programme to Promote Participation of the Americas in the Codex Alimentarius. The IICA thanked the United States and Canada for their continued financial support for the SPS capacity-building activities, particularly those in connection with participation in the CAC. IICA also thanked the European Union for the recent agreement under the European Development Fund Framework, under which the overall objective of its SPS component was to help CARIFORUM States gain improved market access by complying with Europe's SPS measures, and to better develop their own regionally harmonised SPS measures. This project would be implemented in collaboration with the Secretariat of the CARICOM, the Caribbean Regional Fisheries Mechanism and the SPS Committee of the Dominican Republic (G/SPS/GEN/1276).

8.30. OIRSA indicated that from 29 July to 10 October 2013 it had sponsored and developed 17 different technical assistance activities on trade-related issues on plant and animal health, with the objective to disseminate the norms elaborated by the three sisters. This was intended for public and private sectors, international organizations, universities etc. A workshop on veterinary legislation would be held with the participation of OIE and FAO, with a view to harmonize all the veterinary legislations in OIRSA member countries (G/SPS/GEN/1285).

8.31. ITC reported on its activities from June to October 2013, as well as those conducted jointly with various partners, including the EIF and the STDF (G/SPS/GEN/1292).

8.32. New Zealand noted that it was very useful if observers would circulate their presentations in advance of the Committee meetings. The Secretariat recalled that documents for meetings were supposed to be provided at least 10-days in advance of the meeting.

## **9 REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT**

### **9.1 Issues arising from the Second Review**

#### **9.1.1 Adoption of procedure relating to implementation of Article 12.2 (G/SPS/W/259/Rev.7)**

9.1. The Chairperson recalled that at the previous meeting she had reported on the progress that had been made in developing a procedure relating to implementation of Article 12.2 and the use of the Good Offices of the SPS Chairperson. She had made clear that her intention was to table a final proposal for a procedure for adoption at this meeting. The proposed procedure was contained in document G/SPS/W/259/Rev.7, which had been circulated to Members on 9 September 2013. All Members had thus had enough time to carefully read this final version of the proposal, and should be prepared to make a decision at this meeting.

9.2. The Chairperson stressed that although this proposal was not anyone's "preferred" text, it provided a reasonable compromise in addressing everyone's primary concerns and should be acceptable to all. It would create a procedure that would add some clarity and predictability when Members request that the Chair facilitate their efforts to find solutions to very specific trade problems. At the same time, the procedure would provide for a lot of flexibility, to address the particular preferences of the Members involved each time. It was clear that this procedure was not a legally binding agreement, and that it was without prejudice to Members' rights and obligations under the WTO. Finally, the procedure was to be reviewed and modified as the Committee deemed necessary, within a set period of time.

9.3. The Chairperson reported that at least two delegations had indicated that their consultations with their capitals were still on-going, and that they were not in a position to agree to an outright adoption of this procedure at this meeting. The Chairperson asked these delegations and all Members to show the greatest possible flexibility and to agree to the adoption of this procedure on

an *ad referendum* basis. This would give Members a further opportunity to consult with their capitals, which given the busy schedule leading up to the Bali Ministerial Conference, would be extended beyond the usual month. The Chairperson stressed that an adoption *ad referendum* would only provide more time for Members to consult with their capitals and express an objection, not to propose modifications. That is, if no Member had informed the Secretariat that it objected to the adoption of the procedure by Friday 17 December, the procedure would be adopted as now presented.

9.4. The Chairperson proposed that the Committee adopt the procedure contained in document G/SPS/W/259/Rev.7, on an *ad referendum* basis.

9.5. India commended the intensive work undertaken by the Committee during the past year to produce G/SPS/W/259/Rev.7. This issue was of great relevance to India because of the linkages with the NAMA negotiations. Although some compromises had been made, India continued to have reservations on many aspects of the text, which had been considerably weakened and no longer linked to the NAMA negotiations. India was not in a position to adopt Revision 7 even on an *ad referendum* basis, and believed that more discussions were needed in the Committee. More specifically, India did not understand the implications of the bracketed footnote 1 in the main text, and could not accept that an option was given to Members to accept or reject the request itself rather than the consultation procedure which was the second stage of these ad hoc consultations. Regarding paragraph 2.5, India could not understand why a requesting Member would decline to circulate its request, or at least the non-confidential part of a request and had a similar concern with the "up front" confidentiality in paragraph 2.12. Moreover, for India the red line was the need for a reference to the horizontal mechanism process.

9.6. The European Union indicated that despite Revision 7 of the document under discussion not fully reflecting its preferences, it was willing to accept the document in its present form as tabled by the Chair. The European Union did this with a view to moving the work of the Committee forward and in order to overcome the impasse that had been under way for a long time. Given the comments from the floor, the European Union could understand that some Members needed a little more time to consider this proposal however the European Union preferred the proposal on the table to be adopted on an *ad referendum* basis to allow those Members more time for reflection. If however agreement was not possible, the European Union was of the opinion that prolonging the discussion, - particularly if that meant reopening the difficult compromise that had now been reached after eight years of discussion - would not lead to consensus. The European Union recalled that previously the Chairperson had indicated that she would take this issue off the table if it could not be adopted at this meeting, and requested further clarity on the next steps.

9.7. El Salvador supported adoption of the procedure as proposed, recognizing that Members could choose whether or not to use the mechanism, which basically elaborated application of what was already in the Agreement.

9.8. Argentina was prepared to adopt the text, although they would prefer the modification of paragraph 5.1, to read: "whether it is necessary to modify or terminate this procedure...". This modification was also supported by Brazil, Chile, and Uruguay, although they could accept the text in Revision 7. These Members also noted that this mechanism already existed and that the objective was only to find how to better use it.

9.9. Switzerland indicated that it could agree to the adoption of Revision 7, but not to the reopening of the consultations, and asked the Chairperson to clarify the next steps.

9.10. The Chairperson expressed profound disappointment after that so many years of hard work there was still no consensus for adoption, even on an *ad referendum* basis, of this procedure. The Chairperson recalled her earlier suggestion that if Members could not agree to adopt this procedure at this meeting, there was little value in keeping this issue on the active agenda of the Committee. This process had started as part of the second Review in July 2005, and after all these rounds of discussions Members were familiar with each other's views and sensitivities on the issue. All the points raised by India had been previously discussed at length. The Chairperson therefore proposed that the Committee include this item in the March 2014 meeting agenda *only* if those Members who were unable to accept this procedure came with a new proposal that would be acceptable to all Members.

9.11. A large number of Members expressed their disappointment at the failure to adopt the procedure at this meeting, and emphasized the need for Members to show flexibility at this time. Belize agreed with Chile and El Salvador's statement that these guidelines were simply to facilitate the use of a provision that was already available to Members, and Members should make use of the procedure to test its effectiveness. Argentina, Australia, Brazil, Canada, El Salvador, the European Union, South Africa, Switzerland, and the United States all urged Members to reflect and accept the procedure on an *ad referendum* basis. Failing that, some Members urged the Committee to continue its efforts until Members were able to adopt this process since a lot of good work had already gone into this proposal.

9.12. In consideration of the discussions, the Chairperson asked again if there was still any objection to adopting the procedure on an *ad referendum* basis with the deadline of 17 December for any objections.

9.13. India indicated that it was still not in a position to adopt the document at this time.

9.14. The Chairperson requested any Member who could not accept the current proposal to submit their specific suggestions by 17 December 2013. The proposed modifications should be made with full consideration of other Members' positions and views, which were well known, as there was no point in proposing text that had already been discussed and rejected. Any specific proposals would then be discussed at the March 2014 meeting. If no specific proposals were received by 17 December 2013, Revision 7 would be put forward for adoption at the March Committee meeting.

## **9.2 Fourth Review**

### **9.2.1 Proposed process for the review (G/SPS/W/270)**

9.15. The Chairperson recalled that, in accordance with the Ministerial Decision of 2001, the SPS Committee should review the operation and implementation of the SPS Agreement every four years. The previous review had been concluded in March 2010 (G/SPS/53), Fourth Review should be undertaken in 2014.

9.16. Based on previous practice, the Secretariat proposed a process for the review that provided a number of opportunities for Members to: (1) identify issues to be addressed as part of the Fourth Review; (2) submit specific proposals on the identified issues; and (3) comment on any suggestions from others (G/SPS/W/270). The Secretariat would circulate a background document describing the Committee's work since the last Review (subsequently issued as G/SPS/W/273). At an informal meeting in March 2014, Members could discuss the issues and proposals for consideration as well as comment on the background document. In the past, Members had identified a great number of issues but made few specific proposals for actions by the Committee. The Chairperson invited Members to identify any specific issues that they would like to be considered in the Fourth Review.

### **9.2.2 Proposal from Canada on a catalogue of instruments available to WTO Members to manage SPS issues (G/SPS/W/271)**

9.17. Canada proposed that the Committee develop a "Catalogue of Instruments Available to the WTO Members to manage SPS issues" (G/SPS/W/271). The proposed catalogue would include all mechanisms relevant to the SPS Agreement framework, for instance the right to provide "comments on notifications", in accordance with Article 7 and Annex B of the SPS Agreement. Although Canada commonly received these comments, it was rare for a Member submitting comments to request to discuss its comments. Another suggested tool was the targeted or strategic use of some SPS Committee agenda items to allow a Member to raise specific issues with another Member during meetings. Other tools within the WTO (such as the Trade Policy Review), outside the WTO (such as the IPPC dispute settlement or OIE informal mediations procedures) and, if adopted, the recommended procedure for ad hoc consultations in the context of Article 12.2 of the SPS Agreement could be included in this catalogue. A considered and timely use of these tools could help Members avoid, manage, or escalate issues.



9.18. The European Union supported Canada's proposal and suggested that such a catalogue could describe in some detail what these instruments were in order to facilitate their use in practice. The European Union indicated that transparency in the application of the SPS Agreement had improved thanks to the growing number of notifications and to the early notification system. However it believed that there were still shortcomings that should be addressed in the context of the Fourth Review regarding the quality of the notifications. For example, although a 60-day comment period was recommended, more could be done regarding how to take comments received into account, integrate them into the legislative work, respond to comments, and provide an explanation in those cases where the comments were not accepted. Sometimes Members indicated that notified measures were trade-facilitating or in compliance with an international standard, when in fact they were not. More guidance was therefore needed on this matter.

9.19. The European Union was of the opinion that in the Fourth Review the Committee should concentrate its efforts on a limited number of areas where real and practical progress could be achieved.

9.20. Argentina recalled its proposal for a revision of the procedure for monitoring the use of international standards (G/SPS/W/268), and suggested that this topic could be addressed in the context of the Fourth Review. The proposed catalogue of tools by Canada could also include those under development, like the new proposed ad hoc consultations procedure, should it be adopted, or the procedure for the use of international standards.

9.21. Brazil and Chile recalled that Uruguay had raised concerns regarding the issue of undue delay in the previous review, which had received support from many Members, and indicated that they would endeavour to make a proposal on this matter in the context of the Fourth Review.

9.22. The Chairperson welcomed the proposals already identified by Members. The next steps were for the Secretariat to circulate a background document covering the period since the last Review, and for Members to comment on this document and/or to request background information on other specific issues, no later than 17 December 2013 (n.b. subsequently changed to 17 January 2014). This was also the deadline for Members to identify other issues for consideration during the Review. There would be one other opportunity for Members to identify issues for the review, i.e. 12 February 2014.

## **10 MONITORING OF THE USE OF INTERNATIONAL STANDARDS**

### **10.1 New issues**

10.1. No Member raised any new issues under this agenda item.

### **10.2 Issues previously raised**

10.2. The IPPC reported on the activities of the Implementation Review and Support System (IRSS), including a general survey on the IPPC and 32 standards (G/SPS/GEN/1284). The IPPC requested contracting parties to complete a survey on pest reporting and regulated pest listing as soon as possible, as this information would help identify ways that the IPPC Secretariat and the IRSS program could better assist countries to fulfil related IPPC obligations. The IRSS website and help desk had been launched and IPPC was seeking donors for translation of existing IRSS analyses, tools and resources, and donors for the second 3-year cycle of the IRSS.

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

### **11.1 Report on informal meeting**

11.1. The Chairperson reported on the informal meeting on SPS-related private standards held on 15 October 2013. At that meeting she had recalled that the Committee had agreed to develop a working definition of SPS-related private standards in order to set the framework within which it would discuss the issue. Agreed Action 1 (G/SPS/55) did not propose a legal definition, but merely sought a framework to limit the scope of issues considered by the Committee.

11.2. The Chairperson had also reminded the Committee that as stated in paragraph 4 of G/SPS/55, endorsement of the adopted actions was without prejudice to the views of Members regarding the scope of the SPS Agreement.

11.3. The Chairperson had recalled that in March, no consensus had emerged on the definitions submitted by Members and that she had invited Members to submit revised or new proposals by 19 April 2013. As only China and New Zealand had submitted proposals at this time, the Chairperson had taken the initiative of asking them to try to develop a joint proposal.

11.4. At the meeting in June, China and New Zealand had presented a first joint working definition and, as there was still no consensus on the proposed definition, Members had agreed to give China and New Zealand more time to continue their work, taking into account the comments made during the meeting in June and comments submitted by 2 August 2013. There were three such submissions from Argentina, Australia and South Africa.

11.5. The Chairperson had reported that, thanks to their continuous leadership and constructive approach, China and New Zealand had tabled a revised joint working definition of an SPS-related private standard for discussion at the informal meeting. The proposed working definition was contained in document G/SPS/W/272 circulated on 8 October 2013.

11.6. China and New Zealand had presented the proposed working definition and had explained their considerations in developing the definition. The Secretariat had reported that the WTO Legal Affairs Division had confirmed that the proposed working definition and its footnote did not entail any legal interpretation as to whether or not private standards were covered by the terms of the SPS Agreement. Several Members had taken the floor to support the joint effort by China and New Zealand, to support specific elements of the proposed joint working definition, and to flag particular concerns.

11.7. As no consensus had emerged on the working definition tabled by China and New Zealand, Members had agreed to move the process forward by forming an electronic working group. China and New Zealand would act as "co-stewards", and the e-working group would focus on Action 1, namely on developing a working definition of an SPS-related private standard.

11.8. The Chairperson had invited Members interested in being part of the working group to submit specific and concrete proposals or comments on the definition to the Secretariat.

11.9. It had also been agreed that the e-working group would submit to the Chair, through the Secretariat, a proposed compromise text on a working definition of an SPS-related private standard no later than: **the end of February 2014**. The proposed definition would then be circulated to all Members for consideration at the March 2014 meeting of the Committee.

11.10. Under Action 2, Argentina had encouraged Codex, IPPC and OIE to contact the private schemes identified by Members in document G/SPS/GEN/932/Rev.1 and promote the use of international standards. The Three Sisters could then report back to the SPS Committee on those contacts.

11.11. The representative of IPPC had reported that IPPC had requested that ISO clarify that there were no obligations to implement ISO standards in order to comply with IPPC standards.

11.12. Belize had noted the close linkages between the twelve actions identified by the ad hoc working group on private standards in G/SPS/W/256 (see G/SPS/GEN/1290). For instance, efforts under Action 4 could be enhanced if carried out jointly with Action 5. Belize had also suggested enhancing Action 4 by sensitizing private standard setting entities to (i) the Code of Good Practice of the TBT Agreement, as well as the "six principles" adopted by the TBT Committee, and (ii) the list of concerns in paragraph 24 under Action 6 of document G/SPS/W/256.

11.13. The Philippines had noted the importance of sensitizing private actors and informed Members of upcoming regional and national briefing sessions jointly organized by the Department of Agriculture and UNFSS. The Regional Briefing Session for ASEAN would address how governments and private sector could work together to achieve sustainable development goals and facilitate market access. The national briefing would discuss national strategic approaches on how

the relevant stakeholders could coordinate to help achieve sustainable development goals and facilitate market access.

11.14. China had referred to its submission G/SPS/GEN/1261 on Action 4, and noted that it would be useful when communicating with non-governmental entities for Members to make reference to the TBT Code of Good Practice and to the TBT Committee's Decision on the "Six Principles" for the preparation of international standards. China had noted that some Members were already communicating with private entities in their territories involved in the development, application and certification of private standards and had encouraged Members to share their experiences in that regard.

11.15. Under Action 5, the Secretariat had noted that Codex had developed new materials on the role Codex standards could play in ensuring the trade of safe food. Members could use those new Codex materials as well as materials that already existed from the other sisters, and disseminate them to their private sector.

11.16. Under Action 5, Argentina had reiterated its suggestion that Codex, IPPC and OIE liaise directly with the various private schemes identified by Members in document G/SPS/GEN/932/Rev.1. Such contact could then inform the three sisters' efforts to develop and/or disseminate materials underlying the importance of international standards. Burkina Faso had also suggested that Codex, IPPC and OIE set up a consultative framework with private standards setting bodies.

11.17. With regards to Action 10, Belize had encouraged Members to review the TBT Code of Good Practice and determine its applicability for the implementation of the action. On Action 11, Belize had encouraged Members liaising with entities involved in SPS-related private standards to share their experience with the Committee, as the approaches used could be considered in the implementation of Action 11. See G/SPS/GEN/1291.

11.18. It had also been suggested that the Committee explore ways to move forward on Actions 6-12 through a voluntary working group. However, some Members had noted that there was no consensus on Actions 6-12 and advised the Committee not to invest time on such actions.

11.19. In closing the discussions, the Chairperson had encouraged all Members to share information on their experiences regarding the implementation of the agreed Actions.

11.20. UNCTAD had provided an update on recent UNFSS activities since the launch of the platform in March 2013 and made a presentation addressing: priority issues, its activities through a three-pillar approach, and recent collaborations and meetings. The presentation had prompted interest and questions from the Committee. More information and contact details were available on the UNFSS website (<http://www.unfss.org>).

11.21. Some Members had questioned the relevance of UNFSS' work with regards to the SPS Committee. It had been explained that issues related to pesticide residues were often addressed in sustainability standards. Reference had also been made more generally to UNCTAD's longstanding work on private standards and developing country concerns. China had also underlined the relevance of inviting the UNFSS to provide updates on its activities. The Secretariat had noted that it was also possible to organize information sessions on the margins of SPS Committee meetings, as had been done in the past.

11.22. Chile had noted the importance of increased awareness about the operations of private standard-setting bodies, and referred to the OIE Resolution guiding OIE's relations with private standard-setting bodies. The collaboration of both OIE and Codex with private standard-setting bodies was encouraged. This collaboration was important to encourage the development and implementation of science-based food safety and other standards, whether official or private.

11.23. Following her oral report on the informal meeting, the Chairperson noted that to provide time for the e-working group to table a proposal by end February given end of year holidays, Members who wanted to be part of the e-working group should submit specific proposals and/or comments on the definition by **8 November 2013**. Once the Secretariat received all comments

and proposals, these would be provided to New Zealand and China for their consideration when drafting a proposed definition for consultation with e-working group members.

## 12 OBSERVERS

### 12.1 Information from observer organizations

12.1. No observer organization provided further information on their relevant activities.

### 12.2 Requests for observer status

12.2. The Chairperson proposed that as had been done the previous year, the SPS Committee invite the organizations with ad hoc observer status to participate in all of the SPS Committee meetings for 2014 - with the exception, of course, of any closed meeting - unless any Member objected to the participation of any of these observers in advance of a meeting. It was so agreed.

12.3. The Chairperson recalled that the Committee had also agreed in 2012, that if for any one-year period an ad hoc observer organization did not attend the meetings of the SPS Committee, the Committee might consider that its observer status had lapsed after the Secretariat had advised the observer organization and had received confirmation that it was no longer interested in maintaining its observer status. The Secretariat indicated that eight out of the 16 ad hoc observer organizations had not attended a single meeting of the SPS Committee during 2013. These were: ACP Group; AITIC; CEN-SAD; ECCAS; ECOWAS; OECD; SADC; and SELA. The Chairperson requested the Secretariat to contact these organizations and seek information regarding their continuing interest to participate as observers in the SPS Committee.

12.4. The Chairperson noted that there were still six outstanding requests for observer status in the SPS Committee: the Convention on Biological Diversity (CBD); CABI International; the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); the Organisation Internationale de la Vigne et du Vin (OIV); the Asian and Pacific Coconut Community (APCC); and the International Cocoa Organization (ICCO). She observed that Members' positions on these requests had not changed since the last meeting, and that there was not yet a consensus to grant ad hoc observer status to any of these organizations.

12.5. The Chairperson informed the observer organizations that their contributions to the work of the SPS Committee and their assistance to Members were highly appreciated and that the Committee had agreed to invite them to participate in all unrestricted meetings during 2014. She once again encouraged them to provide written reports on their relevant activities in advance of the March meeting.

## 13 OTHER BUSINESS

### 13.1 The ban on import of Ukrainian confectionary products to Russia

13.1. Ukraine raised concerns about the non-transparent manner in which Russia had banned imports of confectionary products on 29 July 2013. This measure, based on the Resolution of the Federal Service on Customers' Rights Protection and Human Well-being Surveillance of Russia (No.01/8612-13-23), had not been notified and Russia's SPS Enquiry Point did not provide the relevant information requested by Ukraine on 8 August 2013. No official evidence concerning the alleged presence of contaminants (such as benzopiren) had been officially submitted to Ukraine. Despite bilateral consultations the import ban was still in place. Ukraine believed that the measure was unnecessary and unjustifiably strict, maintained without sufficient scientific evidence, and applied in a discriminatory manner, contrary to Annex C of the SPS Agreement. Ukraine requested Russia to provide an official detailed justification of its measure, or to immediately lift the ban and to bring its measure into line with the SPS Agreement and with its accession commitments.

13.2. Russia indicated that the reason for suspending Ukrainian confectionary product imports was largely outside the scope of the SPS Agreement. Not all imports of confectionary products had been suspended, but only of one particular brand from Ukraine. The ban was related to the long-term detection of labelling violations in these particular goods, and the fight against deceptive trade practices. The indication of the product categories did not correspond to the definitions in the

Russian technical regulations. Russia had already held three rounds of consultations with the competent authorities of Ukraine, and an action plan developed to restart imports of confectionary products. Russia had provided an answer to Ukraine's request for notification but apparently this had not been satisfactory to Ukraine. A second set of answers by the competent authority made it clear that the measure in place was the same as that applied to domestic products. Russia considered that this trade concern had been resolved.

13.3. The Secretariat once again drew Members' attention to the on-going work of the negotiating group on trade facilitation, as this text was evolving very rapidly and contained a number of provisions that could potentially be of relevance to border inspectors looking at a full range of SPS matters. To ensure that the new text would be complementary and avoid any potential conflict or reduction of what had been negotiated in the SPS area, the Secretariat urged delegates to coordinate with their colleagues involved in the negotiations.

13.4. The Secretariat indicated that the annual report (G/L/1039) of the SPS Committee to the Council for Trade in Goods had been circulated and would be revised to also reflect what had happened at this meeting.

#### **14 DATE AND AGENDA OF NEXT MEETING**

14.1. The next meeting of the Committee is tentatively scheduled for 25-26 March 2014. The Chairperson proposed to hold informal consultations regarding the Fourth Review and SPS-related private standards immediately prior to the next meeting.

14.2. The Committee agreed to the following tentative agenda for its March 2014 meeting:

1. Adoption of the agenda
2. Information on relevant activities
  - a. Information from Members
  - b. Information from the relevant SPS standard-setting bodies
3. Specific trade concerns
  - c. New issues
  - d. Issues previously raised
    - [(i) Consideration of specific notifications received]
    - (ii) Information on resolution of issues in G/SPS/GEN/204/Rev.14
4. Operation of transparency provisions
5. Implementation of special and differential treatment
6. Equivalence – Article 4
  - a. Information from Members on their experiences
  - b. Information from relevant Observer organizations
7. Pest- and Disease-free areas – Article 6
  - a. Information from Members on their pest or disease status
  - b. Information from Members on their experiences in recognition of pest- or disease-free areas
  - c. Information from relevant observer organizations
8. Technical assistance and cooperation
  - a. Information from the Secretariat
    - (i) WTO SPS activities
    - (ii) STDF

- b. Information from Members
- c. Information from Observers
9. Review of the Operation and Implementation of the SPS Agreement
  - [a. Issues arising from the Second Review]
  - b. Fourth Review
    - (i) Report of the informal meeting
10. Monitoring of the use of international standards
  - a. New issues
  - b. Issues previously raised
11. Concerns with private and commercial standards
  - a. Report on informal meeting
12. Observers
  - a. Information from Observer organizations
  - b. Request for observer status
13. Election of the Chairperson
14. Other business
15. Date and agenda of next meeting

14.3. The Secretariat clarified that agenda item 3(c) - Consideration of Specific Notifications Received - would be included in the agenda only if Members identified specific issues to be considered under that agenda item by the deadline for doing so. The inclusion of agenda item 9 – Issues arising from the Second Review, would depend on what proposal, if any, would be made regarding the ad hoc consultations procedure by the deadline.

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

- Members who wanted to participate in the electronic working group to develop a revised proposed definition of SPS-related private standards should submit specific, concrete comments or suggestions to the Secretariat by **8 November 2013**;
  - For specific proposals of a new consensus text on the procedure to facilitate ad hoc consultations: **17 December 2013**;
  - For comments on the background document of the Fourth Review (G/SPS/W/273), as well as requests for additional background information on specific issues and identification of issues for consideration during the Fourth Review: 17 December 2013 (n.b. subsequently changed to **19 January 2014**);
  - For submission of papers on issues proposed for consideration during the Fourth Review as well as for the identification of additional issues for consideration: **12 February 2014**;
  - For identifying issues for consideration under the monitoring procedure, and for requesting that items be put on the agenda: **Thursday, 13 March 2014**;
  - For distribution of the Airgram, for the submission of papers on issues for consideration under the Fourth Review, and for circulation of documents to be considered at the March meeting: **Friday, 14 March 2014**.
-