

---

**Committee on Sanitary and Phytosanitary Measures**

**SUMMARY OF THE MEETING OF 17-18 MARCH 2010**

Note by the Secretariat<sup>1</sup>

Table of contents

	<u>Page</u>
<b>I. ADOPTION OF THE AGENDA.....</b>	<b>3</b>
<b>II. INFORMATION ON RELEVANT ACTIVITIES .....</b>	<b>3</b>
(a) Information from Members.....	3
(b) Information from Observer Organizations.....	5
<b>III. SPECIFIC TRADE CONCERNS (G/SPS/GEN/204/REV.10) .....</b>	<b>5</b>
(a) New Issues .....	6
(b) Issues Previously Raised.....	8
(c) Consideration of Specific Notifications Received .....	11
(d) Information on Resolution of Issues .....	12
<b>IV. OPERATION OF TRANSPARENCY PROVISIONS .....</b>	<b>12</b>
<b>V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT .....</b>	<b>13</b>
<b>VI. EQUIVALENCE – ARTICLE 4.....</b>	<b>13</b>
(a) Information from Members on their Experiences .....	13
(b) Information from Relevant Observer Organizations .....	13
<b>VII. PEST- AND DISEASE-FREE AREAS – ARTICLE 6.....</b>	<b>13</b>
(a) Information from Members on their Pest or Disease Status .....	13
(b) Information from Members on their Experiences in Recognition of Pest- or Disease-free Areas .....	13
(c) Information from Relevant Observer Organizations .....	14
<b>VIII. TECHNICAL ASSISTANCE AND COOPERATION .....</b>	<b>14</b>
(a) Information from the Secretariat.....	14
(b) Information from Members.....	15
(c) Information from Observers .....	16

---

<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.

<b>IX.</b>	<b>REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE SPS AGREEMENT .....</b>	<b>17</b>
(a)	Issues Arising from the Second Review .....	17
(b)	Third Review .....	19
<b>X.</b>	<b>MONITORING ON THE USE OF INTERNATIONAL STANDARDS.....</b>	<b>20</b>
(a)	New Issues .....	20
(b)	Issues Previously Raised.....	20
<b>XI.</b>	<b>CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS.....</b>	<b>20</b>
(a)	Report on Chairperson's Consultations .....	20
<b>XII.</b>	<b>REQUESTS FOR OBSERVER STATUS .....</b>	<b>22</b>
(a)	Ad hoc observers .....	22
(b)	New requests.....	22
(c)	Outstanding requests.....	22
<b>XIII.</b>	<b>ELECTION OF CHAIRPERSON .....</b>	<b>23</b>
<b>XIV.</b>	<b>OTHER BUSINESS.....</b>	<b>23</b>
<b>XV.</b>	<b>DATE AND AGENDA OF NEXT MEETING.....</b>	<b>23</b>

## **I. ADOPTION OF THE AGENDA**

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its forty-seventh regular meeting on 17-18 March 2010. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3525).

## **II. INFORMATION ON RELEVANT ACTIVITIES**

### **(a) Information from Members**

2. The representative of Indonesia reported that new requirements and plant quarantine actions for the importation of wood packaging materials, implemented through the Minister of Agriculture decree No. 12/2009 (G/SPS/N/IDN/27/Add.1), entered into force. This measure was followed by guidelines for plant quarantine inspectors responsible for conducting plant quarantine measures related to the importation of wood packaging materials, according to the decree of the Director General of Indonesian Agricultural Quarantine Agency No. 295/2009. Indonesia considered that both decrees were in accordance with the International Standard for Phytosanitary Measures (ISPM) No. 15 of 2002, and the revised ISPM No. 15 of 2009. Further information on Indonesia's measures are in G/SPS/GEN/998.

3. The representative of Indonesia also reported on the adoption of Regulation No. 21/2010 of the Minister of Agriculture lifting the import restrictions on swine and swine products that related to Influenza A/H1N1. The representatives of Mexico and the European Union (EU) welcomed the changes in Indonesia's regime on Influenza A/H1N1.

4. The representative of Zambia presented a report on the SPS-related activities of its plant quarantine and phytosanitary service (G/SPS/GEN/996). These activities included a national workshop to strength the national SPS committee; a regional SPS meeting for selected countries in the Common Market for Eastern and Southern Africa (COMESA) region as part of the project on the Participation of African Nations in Sanitary and Phytosanitary Standards-setting Organizations (PAN-SPSO); an SPS workshop for farmers; and survey programmes related to seed crop inspection and pest survey. Zambia thanked COMESA, the African Union – Inter-African Bureau for Animal Resources (AU-IBAR), the Southern Africa Confederation of Agricultural Unions (SACAU), and the EU for the continual support on SPS matters.

5. The representative of Zambia also reported on the establishment of a Plant Protection Regulatory Authority (PPRA) which would administer the country's Plant Protection Act, now awaiting ratification. The new PPRA was in line with the country's Business Licensing Reforms which are aimed at reducing the costs and time of doing business while protecting the country from introduction of pests and promoting safe international trade.

6. The representative of the Dominican Republic provided information regarding the improvement of the national system on the use and application of pesticides, as well as the application of good agricultural practices and good manufacturing practices. This entailed the registration of all agrochemicals sellers, records and reviews of all pesticides sales following the authorization by a phytosanitary expert, creation of an Export Programme for Oriental Vegetables and Fresh Fruits, revamp of laboratories on pesticides residues, and training of regional technical committees. Further information and requirements related to food safety, animal health and plant protection, as well as the legislation and technical documents, were available on the website of the National Committee for the Application of Sanitary and Phytosanitary Measures at <http://www.cnmsf.gob.do>.

7. The representative of Australia provided information on the entry into force, on 1 March 2010, of changes to its BSE and imported beef and beef products policy (BSE policy), notified in G/SPS/N/AUS/239. The changes would require every supplying country to undergo assessment processes to ensure food safety and animal health. Food safety risk assessments would be conducted by Food Standards Australia New Zealand (FSANZ) following BSE risk mitigation strategies in line with those recommended by the World Organisation for Animal Health (OIE), and the BSE risk assessment method used by the OIE. Further documents on the policy change could be found at the FSANZ website. Animal health assessments would be conducted by the Department of Agriculture, Fisheries and Forestry. The import risk analysis (IRA) was expected to take a maximum of 24 months to complete, and included the engagement and consultation of an Eminent Experts Group. Further details of how the IRA would be undertaken would be provided shortly to interested trading partners. Both the food safety and animal health assessment processes could be undertaken in parallel. The new policy would allow all countries, including those that have had one or more cases of BSE, to apply for risk assessment by the Australian authorities. Countries with existing FSANZ food safety assessments, or whose access dated from before the introduction of the 2001 assessment process, were reminded that their process would continue until 30 June 2011, when they would need to apply for a new risk assessment. In case of any significant BSE related development in countries with existing access, the transitional access would be reviewed.

8. The representatives of Canada, the European Union and the United States expressed disappointment with the changes in Australia's BSE policy, arguing that an independent examination would delay the process, and did not take into consideration OIE's exhaustive research on countries' BSE determinations.

9. The representative of the OIE recalled that the OIE standards on BSE and the official country status recognition had been in place for more than 20 years, and updates were regularly made based on science and newly available information. In addition, the standards-setting activities of the OIE involved all members and democratic decision-making. The OIE was neutral regarding the changes in Australia's BSE policy, but encouraged Australia to base its measures on the OIE system. The representative of Australia clarified that the IRA should take a maximum of 24 months, and that the OIE methodology would be used in the risk assessment.

10. The representative of Madagascar reported that with the assistance of COMESA, and as part of the PAN-SPSO project, a national seminar had been organized to decide on the establishment of a national SPS committee.

11. The representative of Malawi reported on several SPS-related developments in the country, including: (i) SACAU projects on sensitization of smallholders regarding the implication of SPS standards and international trade; (ii) the increase of exports by the National Smallholder Farmers Association (NASFAM) resulting in an increase of foreign exchanges inflows; (iii) organization of an SPS workshop in 2008 to discuss issues such as the Phytosanitary Capacity Evaluation (PCE) tool; (iv) organization of a workshop funded by SACAU addressing the involvement of smallholders in the standards-setting process, held in October 2009; (v) organization of a SACAU-funded workshop for the Farmers Union of Malawi (FUM) and NASFAM on SPS matters; (vi) improvement of NASFAM's compliance with SPS standards on several agricultural products; (vii) assistance by Commark Trust for the participation of a delegation in the WTO SPS Committee; (viii) FAO assistance to update Malawi's SPS-related legislation, including the Plant Protection Act. In addition, the Government of Malawi planned to increase the exports of high quality agricultural exports. For this, however, the laboratories for the identification of pests and diseases in the country needed to be accredited and modernized, and the country needed assistance to improve, *inter alia*, its human capacity and infrastructure.

(b) Information from Observer Organizations

12. The representative of the International Plant Protection Convention (IPPC) Secretariat presented a report covering the period of November 2009 to February 2010 (G/SPS/GEN/999). The report included: information about the Fifth Session of the Commission on Phytosanitary Measures (CPM-5) and the standards proposed for adoption; the general standard-setting work programme up to February 2010; information exchange matters (covering information on countries' contact points to IPPC; the international phytosanitary portal, and pests reporting); the capacity building plan and activities; the key proposed activities for 2010; and a list with all the adopted International Standards for Phytosanitary Measures (ISPMs).

13. The representative of the OIE announced that the report of the Code Commission, to be discussed and adopted during the 78<sup>th</sup> General Session of the World Assembly of Delegates of the OIE, had been made available in the OIE delegates' restricted website. Furthermore, the list of country status recognition prepared by the Scientific Commission for Animal Diseases (SCAD) had been circulated to the OIE delegates. This list would also be considered in the next General Session. Document G/SPS/GEN/1000 contained an up-to-date report on the developments in OIE's standard-setting work on terrestrial animals and their products; an update on OIE's activities related to the support of the veterinary services of its members, including through the application of the OIE Performance of Veterinary Services (PVS) Tool; and assistance on veterinary education. OIE's report also included a section on the work being done on private standards. The representative of Belize reported that the PVS GAP analysis would be conducted in her country in April 2010. Belize requested that once the report of its PVS GAP analysis was finalized it should be immediately shared so that the areas to be strengthened were identified and communicated to the relevant donor agencies.

14. The representative of Codex indicated that a report on the latest Codex activities would be circulated shortly (G/SPS/GEN/1010). In addition, in the week of 7 March 2010, the Codex Committee on Methods of Analysis and Sampling had finalized the "Guidelines on Criteria for Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins" for food authentication and identification of allergens and pathogens. These guidelines were based on the latest scientific information and would be proposed for adoption at the next session of the Codex Alimentarius Commission in July 2010. A methodology and methods of analysis for how to address measurement uncertainty were under revision. Earlier in 2010, Codex had sought advice from an expert consultation group on the risks and benefits of fish consumption, especially related to the maximum level of methylmercury.

15. The representative of the European Union commended the reports provided by IPPC, OIE and Codex and recalled the usefulness and importance of these reports. This agenda item had been advanced as agreed during the conclusions of the October 2009 workshop on the relationship between the SPS Committee and the International Standard-setting Organizations. The European Union underlined the importance of the work being done in these organizations, such as the PVS evaluations by the OIE and the guidelines on detection methods elaborated by Codex. The representative of the European Union also drew attention to a report of the World Bank on competitiveness in the food industry and the impact of both public and private standards, and suggested that the World Bank be invited to present a summary of this report to the SPS Committee.

### III. SPECIFIC TRADE CONCERNS

16. The Secretariat presented the 10<sup>th</sup> revision of the annual compilation of Specific Trade Concerns (STCs), document G/SPS/GEN/204/Rev.10, issued in February 2010. From 1995 through 2009, a total of 290 STCs have been raised in the SPS Committee. Forty per cent of these concerns related primarily to animal health, 28 per cent to food safety, 26 to plant health, and the remaining six per cent to other issues (e.g., certification). During 2009, 29 STCs were raised, including 13 issues raised for the first time, and 16 concerns that had been raised for the first time prior to 2009.

17. Developing countries have actively used this mechanism for addressing trade problems, and have raised 146 STCs. Least-developed countries (LDCs) raised three STCs from 1995 through 2009.

18. Of the total 290 STCs raised, Members have reported to the Committee that 79 were resolved, and 18 were partially resolved. No solution was reported for the remaining 193 STCs. Some of these concerns may have in fact been resolved but the resolution was not reported to the Committee. Information concerning the STCs are available from the SPS Information Management System (<http://spsims.wto.org>).

(a) New Issues

(i) *Chinese Taipei's BSE Measures – Concerns of Canada*

19. The representative of Canada expressed concerns over Chinese Taipei's BSE measures. In May 2007, the OIE recognized Canada as a "controlled BSE risk" country, and in July 2007 Chinese Taipei resumed partial trade with Canada by allowing access for boneless beef from animals under 30 months of age. However, despite numerous technical discussions, an inspection visit to Canada, the completion of a risk assessment, and a formal arrangement on conditions for bone-in beef from animals under 30 months, no further market access had been granted by Chinese Taipei. In January 2010, Chinese Taipei approved an amendment to its food sanitation act banning the import of offal and certain other bovine products from countries affected by BSE. Canada was concerned about the recent amendments to Chinese Taipei's legislation, and requested that all necessary steps be taken to ensure that the import conditions by Chinese Taipei were consistent with the recommendations and guidelines provided by the OIE.

20. The representative of Chinese Taipei explained that the recent 16<sup>th</sup> and 17<sup>th</sup> cases of BSE in Canada necessitated a new risk assessment of bone-in beef. Pending completion of the new risk assessment, the current regulations on imports of bone-in beef from Canada would remain in force. Chinese Taipei maintained that its BSE regulation was consistent with the SPS Agreement.

(ii) *US Prohibition of Ornamental Plants Larger than 18 inches – Concerns of Costa Rica*

21. The representative of Costa Rica referred to the US restrictions on the importation of ornamental plants larger than 18 inches, based on the US Code of Federal Regulation, section 37, part 319, title 7 (7 CFR § 319.37). Costa Rica reported that in early 2000 it had conducted a risk assessment to support its request for the United States to lift its restrictions. Based on a US request, Costa Rica had established and operated a Clean Stock Program, aimed at reducing the number of interceptions of exports of ornamental plants to the United States. The Clean Stock Program for *Dracaena marginata* started to operate in 2005, and it involved authorities from Costa Rica and the United States. The Program concluded its work in December 2008. However, more than one year after the conclusion of the Program, the United States had not yet initiated a process to modify its regulation restricting the importation of ornamental plants larger than 18 inches. A working plan had been elaborated by the regulatory agencies of both countries, nevertheless, Costa Rica was concerned that despite the agreement on the technical issues of the Plan, the United States was taking too long to revise its restrictions.

22. The representative of the United States reported that the authorities of both countries had been working cooperatively on issues related to the importation of tropical foliage, particularly *dracaena spp.*. The ongoing work addressed the development of greater surveillance and inspection protocols to reduce the high number of interceptions. The United States Department of Agriculture (USDA) was working with Costa Rica on a work plan and a proposed rule to allow the safe entry of oversized *dracaena spp.* To complete the science-based review process, the USDA was awaiting a response on the draft work plan by Costa Rica, so as to expand the current Clean Stock Program.

(iii) *France - Risks Arising from Carambola Fruit Fly in French Guyana – Concerns of Brazil*

23. The representative of Brazil expressed concerns regarding delays in eradicating the carambola fruit fly from the area close to the common border between French Guyana and Brazil. The carambola fruit fly posed a real risk of spreading in the country and could negatively affect many producers. A protocol of cooperation in the control and eradication of the carambola fruit fly was signed between Brazil and France in 2002. However, France had suspended the protocol in 2005 without providing a sufficient justification. A meeting of experts from both parties with an independent expert was yet to be scheduled. Brazil was mainly concerned that the delay in the resolution of this problem might result in severe losses to its fruit producers.

24. The representative of the European Union reported that the French authorities were awaiting a reply by Brazil to a letter dated of 10 November 2009, so the situation could be dealt with accordingly.

(iv) *Malaysian Import Restriction on Plant and Plant Products – Concerns of Brazil*

25. The representative of Brazil expressed concerns related to Malaysia's import restrictions on plants and plants products due to a regulation on South American leaf blight disease. Brazil considered that the regulation did not have a scientific justification. Malaysia's import restrictions were apparently based on a provision in the constitutive of the Asia and Pacific Plant Protection Commission (APPPC) on South American leaf blight disease. However, other parties to the APPPC did not apply this provision to Brazil. A representative of FAO conducted a pest risk analysis to verify whether the South American leaf blight disease represented a risk to Malaysia, but no risks had been identified. Therefore, Brazil requested that Malaysia allow the importation of plants and plants products from Brazil.

26. The representative of Japan observed that the trade restriction was also a concern for Japan. Japan recognized the efforts of the APPPC to amend its regulation so as to be consistent with the SPS Agreement.

27. The representative of Malaysia indicated that he had not receive any information from Brazil in advance of the meeting and, thus, could not consult with his technical officials. Malaysia invited Brazil to send its concern in writing so a response could be provided.

(v) *EU Artificial Colour Warning Labels – Concerns of the United States*

28. The representative of the United States raised concerns about EU Regulation (EC) 1333/2008 on food additives. Article 24 of the Regulation required warning statements on food products that contained one or more of six colour additives: Sunset Yellow (E110), Quinoline Yellow (E104), Carmoisine (E122), Allura Red (E129), Tartrazine (E102), and Ponceau 4R (E124). The United States was particularly concerned with the scientific basis of the regulation, its potential negative impact on international trade, and the transparency of its adoption. Most of these six colour additives were widely used by the food industry in products such as confectionaries and beverages. When the regulation was notified to the WTO Secretariat (G/SPS/N/EEC/291), it did not contain the provision on warning statements, and the United States was not aware of an addendum to the original notification. Statistics from the University of Southampton and the European Food Safety Authority (EFSA) did not substantiate a link between the individual colours and possible behavioural effects in infants. The United States was also concerned that the European Union planned to implement the measure in July 2010.

29. The representatives of New Zealand and Mexico supported the concerns raised by the United States, noting that the measure did not seem to be based on scientific evidence.

30. The representative of the European Union stressed that the issue of colorants was complex and delicate matter, especially in confectionary and beverages consumed by children and infants. The identified additives raised concerns related to health problems in children, such as hyperactivity, attention loss, and deficit-disorder. The study by the University of Southampton raised concerns and media interest, which led shops and retailers to phase out the sale of products containing those food additives. The new EU regulatory regime on additives and colorants was not an import ban but only introduced certain specific labelling provisions. An opinion from EFSA concluded that although the changes noticed in children behaviour were small, they were statistically significant. The European Union also clarified that an addendum to the original notification had been submitted to the WTO Secretariat (G/SPS/N/EEC/291/Add.1). The new measure allowed for an 18-month transitional period before entering into force. The measure was not discriminatory, since it is applied equally to European producers and imports from third countries.

(b) Issues Previously Raised

(i) *Japan's Pesticide Maximum Residue Level (MRL) Enforcement System (STC 267) – Concerns of China*

31. The representative of China reiterated the concerns regarding Japan's MRLs and its enforcement system, which should be based on scientific evidence and applied in a least-trade restrictive manner. According to China, out of approximately 50 thousand MRLs in Japan, more than 40 thousand were "temporary" standards, which were neither based on scientific evidence nor risk assessments as required by the SPS Agreement. Less than 50 per cent of the "temporary" standards had been reviewed by the end of 2009, although they had been applied for almost five years, creating serious obstacles to China's food exports to Japan. Moreover, Japan's "uniform standard" of 0.01 ppm MRL for several products was not based on scientific evidence. MRLs should be set according to the different levels of exposure through different food products, toxicology evaluations and acceptable daily intake (ADI) levels consistently with international practice. In addition, Japan's enforcement system of MRLs was neither reasonable nor transparent, as sometimes Japan inspected 100 per cent of China's food exports, known as "order inspections". By way of examples, Japan set a 2 ppm MRL for pyrimethanil in scallion, while for shallots Japan applied the "uniform standard" of 0.01 ppm. Japan also applied the 0.01 ppm "uniform standard" for chlorpyrifos in matsutake, while the Codex standard for chlorpyrifos in edible fungi was 0.05 ppm. China also asserted that Japan applied a less favourable treatment to imported food products than to Japanese products.

32. The representative of Japan responded that the "uniform limits" had been established after holding consultations and receiving opinions from health experts based on: (i) acceptable exposure levels determined by the evaluations conducted by the Joint FAO/WHO Expert Committee on Food Additives (JECFA), and evaluations on indirect additives by the United States Department of Agriculture (USDA); (ii) acceptable dairy intake for pesticides and veterinary drugs evaluated by JECFA; and (iii) the default level of 0.01 ppm established by the European Union. According to the Japanese system, the Ministry of Health, Labour and Welfare conducted an evaluation before allowing pesticide residues in food products. This evaluation was based on individual pesticide residue data for each commodity. Any exporter could apply to the Ministry of Health, Labour, and Welfare to request the evaluation of specific data on MRLs.

(ii) *US Import Restrictions on Cooked Poultry Products from China (STC 257) – Concerns of China*

33. The representative of China reiterated that Section 743 of the US Agriculture Appropriations Act (AAA) of 2010 set discriminatory requirements on China's processed poultry products. China had raised similar concerns about Sections 733 and 727 of the US appropriations acts of 2008 and 2009, respectively. Section 743 was discriminatory in nature, and required a significantly increased



level of port of entry re-inspection, the creation of an information-sharing programme with other countries, audits of inspection systems and on-site reviews of slaughtering and processing facilities. These Chinese-specific requirements were not in conformity with Articles 2.2 and 2.3 of the SPS Agreement. Although the United States asserted that Section 743 only established commitments on the Secretary of Agriculture by the US Congress, the new requirements would create substantial obligations for China when exporting poultry products to the United States. At the end of 2007, the USDA had concluded the equivalence recognition process for Chinese poultry inspection and control systems. However, the only remaining task, which was the finalization of the US legislation process, had never been concluded. China was dismayed by recent US comments that the equivalence recognition process for Chinese poultry would need to be restarted.

34. The representative of the United States responded that the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act 2010 permitted the USDA to use funds to establish and implement equivalence rules for Chinese poultry. The USDA Food Safety Inspection Service (FSIS) was moving forward with the equivalence process for China and had requested information regarding China's new food safety law on poultry inspection systems, as well as any other changes to China's laws and regulations related to these systems. This type of request was made to any country that had significantly changed its food safety system during an equivalence determination process.

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

35. The representative of the European Union reported that certain WTO Members still maintained unjustified import restrictions arguably to protect against Transmissible Spongiform Encephalopathies (TSE). The European Union urged Members to lift any unnecessary, disproportionate, or discriminatory restrictions which negatively affected EU exports. The OIE recommendations on BSE, which were reviewed in May 2009, included the possibility to import meat or even live animals from countries having a "negligible", "controlled", or "undetermined" BSE risk status, as long as the OIE rules on surveillance and control were followed. In addition, for certain products under specific conditions, such as de-boned skeletal muscle meat, milk and milk products, semen and embryos there should be no BSE import requirements regardless of the BSE risk or the age of the cattle population of the exporting country, zone or compartment.

36. The representative of Switzerland supported the concerns raised by the European Union, stating that WTO Members should base their measures on the OIE recommendations and available data on BSE.

*(iv) India's Restrictions Due to Avian Influenza (STC 185) – Concerns of the United States*

37. The representative of the United States stated that India was alone among the world's leading trading partners in imposing severe import requirements related to avian influenza (AI), that were not in line with those established by the OIE. India continued to maintain emergency measures prohibiting a wide range of pig and avian products. Furthermore, India has not provided timely emergency notifications to the WTO Secretariat, as it had extended its AI emergency measures on 28 August 2009, but not yet notified it. The United States had for several years repeatedly requested a copy of India's risk assessment for AI, but this was never provided.

38. The representative of the European Union supported the US concerns regarding India's ban on import of a number of products and live animals that, according to the OIE, should not be restricted. The European Union highlighted the importance of the use of the SPS notification system by India. The European Union also repeatedly requested India's risk assessment for its AI measure, but had not obtained it. Moreover, India did not recognize the regionalization principle, as applied in the European Union whenever an outbreak of AI occurred.

39. The representative of the OIE encouraged WTO Members to implement the OIE standards on AI, since they were based on science and had been democratically approved. The OIE standards on AI had not been changed recently.

40. The representative of India reported that as notified, it imposed an import ban on live pigs, poultry and other poultry products from countries reporting either the H5 or H7 strains of AI. There was no import ban on live pigs, poultry or poultry products from countries reporting AI in wild birds, other than poultry. The ban was imposed on countries with both Low Pathogenic AI (LPAI) and High Pathogenic AI (HPAI), as the LPAI virus might mutate into HPAI virus. India conducted a detailed risk analysis for the importation of animal and animal products, by a committee of experts, based on the existing global situation of AI, available scientific literature and the OIE standards. The justification for imposing the ban on live pigs was due to the fact that pigs were known to act as mixing vessels for human, animal and other influenza viruses. The ban on pigs would be reviewed after the completion of some technical studies.

(v) *Venezuela's Suspension of Inspection and of Emission of Phyto- and Zoo-sanitary Certificates (G/SPS/GEN/983) (STC 290) – Concerns of Colombia*

41. The representative of Colombia presented G/SPS/GEN/983 addressing the suspension of inspections and of the delivery of plant and animal health certificates for Colombian products into the Bolivarian Republic of Venezuela. Colombia considered that the measures adopted by Venezuela were in flagrant violation of the basic provisions of the SPS Agreement, in particular to Article 2, Annex C, and Article 13 (Implementation), and would cause severe economic losses to Colombia.

42. The representative of Venezuela responded that the information presented in G/SPS/GEN/983 was not based on official documents or an actual certification refusal, but rather on information from the press. The request for approval related to lendormin should not be considered an SPS matter, but as an import licensing issue outside the scope of the SPS Agreement. Venezuela suggested that the issues raised by Colombia be discussed bilaterally.

43. The representatives of Ecuador, Bolivia and Cuba encouraged both countries to try to solve their differences bilaterally.

(vi) *US Rule on Importation of Wooden Handicrafts (G/SPS/N/USA/1921 - STC 284) – Concerns of China*

44. The representative of China reiterated concerns regarding US restrictions on wooden handicrafts from China (G/SPS/N/USA/1921). The notified draft regulation would apply to all wooden handicrafts from China although the risks which had triggered the import ban were only associated with wooden handicrafts with a diameter over one centimetre. China hoped that the United States would limit the scope of the measure to products presenting real risks. According to the draft regulation, all wooden handicrafts from China would be subject to fumigation or heat treatment and require plant quarantine certificates, which would unnecessarily raise costs for the Chinese handicraft industry and plant quarantine authorities. China had made these points in its written comments on the US notification and invited the United States to take the comments into account when finalizing the regulation. To date, China had received no reply from the United States. China was willing to continue cooperating and hoped that the United States would take concrete steps to address China's concern.

45. The representative of the United States explained that a proposed rule to reauthorize the importation of wooden handicrafts from China subject to specific requirements had been published in April 2009 and notified as G/SPS/N/USA/1921. The proposal would allow trade in a broad range of handicrafts to resume while continuing to protect the United States against the introduction of plant

pests such as wood boring beetles. The comment period on this notification had closed on 8 June 2009, and the United States had received eight comments, including comments from China. The USDA's Animal and Plant Health Inspection Service would promulgate an additional proposed rule that would address China's concerns, and subsequently a final rule, after evaluation of public comments.

(c) Consideration of Specific Notifications Received

(i) *Ukraine Import Measures on Animals and Animal Products (G/SPS/N/UKR/3/Rev.2 and Add.1 - STC 288 ) – Concerns of the European Union*

46. The representative of the European Union highlighted the importance of the notification circulated on 7 January 2010, that Ukraine was withdrawing earlier notified measures on animals and animal products due to BSE and other prion infections. The European Union welcomed the withdrawal of the measure, which would have implied the sudden imposition of an inspection requirement for all export establishments. The draft measure had covered a wide range of animals and animal products and would have caused unnecessary trade disruptions. Along with other trading partners, the European Union had expressed concerns on these draft measures in the SPS Committee and had also held bilateral discussions with Ukraine. The European Union considered this a good example of the importance of the transparency obligations and the SPS notification system. The European Union was willing to continue working closely with Ukraine on further developments of its import system, which should continue operating in a transparent manner with a view to avoiding trade disruptions.

47. The representatives of Canada and Norway also appreciated the decision to withdraw the notified measure and thanked the Ukraine for its responsiveness. Canada had also raised concerns about this matter and submitted detailed written comments. This was a good example of an effective use of the WTO notification process to avoid trade problems.

48. The representative of Ukraine explained that inspections were part of normal procedures. Ukraine had taken into account the concerns expressed at the previous SPS Committee meeting and bilaterally. It was important to ensure that measures were based on science and on OIE standards. Ukraine would continue to cooperate with its trading partners.

(ii) *Canada's Proposed MRL for 1-Methylcyclopropene in Bananas (G/SPS/N/CAN/413 and Corr.1) – Concerns of Ecuador*

49. The representative of Ecuador expressed concerns with Canada's notification of 22 December 2009 regarding 1-methylcyclopropene in or on bananas. This product was used to prevent premature ripening of fruit due to ethylene exposure. This product was not registered with Ecuador's agricultural quality assurance agency AGROCALIDAD and Codex had not established an MRL for it. Consultations with the private sector had shown that exporting companies affiliated with the banana exporters' association of Ecuador did not use this product. Nevertheless, Ecuador was concerned about the notified regulation, which proposed an extremely low MRL and could thus become a trade barrier. Therefore, Ecuador requested an explanation of the scientific basis for the proposed MRL.

50. The representatives of Colombia and Costa Rica shared Ecuador's concern, while the representative of Venezuela expressed a systemic interest in the issue.

51. The representative of Canada acknowledged Ecuador's concern and noted that Canada followed the transparency obligations to avoid unnecessary barriers to trade. The comment period on the notification had ended on 2 March 2010, and Canada had not received any comments, nor any requests for an extension of the deadline for comments. If Canada received a request for such an extension from Ecuador, the deadline would be extended.

(d) Information on Resolution of Issues

(i) *EU Measures Related to Wood Packaging Material (STC 81) – Information from Canada*

52. The representative of Canada announced the resolution of its concerns regarding EU phytosanitary requirements for non-manufactured solid wood packaging, first raised in November 2000. At the time, Canada and others had been working on an international standard for wood packaging material. In 2002, the IPPC had adopted ISPM 15 for the regulation of wood packaging material in international trade. Canada supported the IPPC standard, and now agreed that there was no substantial difference between ISPM 15 and the EU phytosanitary requirement for wood packaging. Canada had no objection to the EU legislation for solid wood packaging and wished to close this trade concern.

53. The representative of the European Union recalled that this issue had been raised by several Members, who had requested a delay in the entry into force of the measure. The European Union considered that the resolution of this issue was also been a success in terms of the provision of special and differential treatment.

(ii) *Mexico's Restrictions on Importation of Rice (STC 270) – Information from Mexico*

54. The representative of Mexico indicated that on 21 January 2010 Mexico had removed the absolute restrictions on rice imports due to the Khapra beetle and replaced it with partial restrictions. This had been notified as G/SPS/N/MEX/184/Add.1. Pakistan and other countries that complied with the new phytosanitary requirements should be able to export rice to Mexico.

55. The representative of Pakistan was grateful to Mexico for resolving the issue and hoped that this would lead to an increase in economic cooperation and trade between the two countries.

#### **IV. OPERATION OF TRANSPARENCY PROVISIONS**

56. The Chairperson noted that the most recent list of National Notification Authorities was contained in SPS/NNA/15; the most recent list of National Enquiry Points in SPS/ENQ/25. The Chairperson reminded the Committee that the paper copies of these lists were updated only once every year, but that the electronic lists were constantly updated and available through the SPS Information Management System (IMS). The Chairperson asked Members to provide the most recent contact information to the Secretariat so that it could be included in the IMS.

57. The Chairperson indicated that notifications received since the last meeting of the SPS Committee were summarized on a monthly basis in G/SPS/GEN/977, G/SPS/GEN/986, G/SPS/GEN/990, G/SPS/GEN/993 and G/SPS/GEN/1005. A list of all SPS documents issued in 2009 by Members, Observers and the Secretariat was contained in G/SPS/GEN/991. The Secretariat had also updated the list of Members that had not yet identified an SPS National Notification Authority and/or Enquiry Point in G/SPS/GEN/27/Rev.20.

58. The Secretariat reminded the Committee that it was organizing a workshop on transparency to be held on Monday, 18 October 2010, immediately preceding the SPS Committee meetings scheduled for that week. All Members, Observers and observer organizations were welcome to attend this workshop. The WTO would be able to fund the participation of about 50 officials from Enquiry Points or National Notification Authorities from developing countries and LDCs. Further details on eligibility, funding and the application forms could be found in document G/SPS/GEN/997. This Secretariat document provided detailed information on all WTO SPS technical assistance activities scheduled for 2010. The deadline for applications for funding to participate in the workshop on transparency was 9 July 2010.

59. The Secretariat would circulate a draft programme for the workshop for consideration by the Committee at its June meeting. The programme was likely to include introductory sessions on (i) the transparency provisions of the SPS Agreement, (ii) statistics and analysis on the level of implementation of transparency obligations, and (iii) useful tools which were readily available for implementing the transparency provisions and for benefiting from them. The workshop would also feature some practical demonstration sessions on the SPS Information Management System, which was important in light of the large number of documents and notifications in circulation. In addition, break-out sessions would focus on specific themes or questions. The Secretariat welcomed suggestions and inputs for the workshop programme from Members. The Secretariat would circulate a questionnaire to participants in the mentoring mechanism for Enquiry Points and National Notification Authorities. The experiences with mentoring could also be considered at the transparency workshop.

#### **V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT**

60. The Chairperson recalled that at the last meeting, the Committee had adopted the revised procedure for responding to requests for special and differential treatment on an ad referendum basis. Since no objections had been raised by the agreed deadline, this decision was confirmed and had been circulated as G/SPS/33/Rev.1.

#### **VI. EQUIVALENCE – ARTICLE 4**

(a) Information from Members on their Experiences

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

(b) Information from Relevant Observer Organizations

62. No observer organizations provided any information.

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

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

63. The representative of Argentina drew attention to document G/SPS/GEN/994, which provided information on measures taken since November 2009 in response to the detection of fruit flies in one locality of Patagonia. The control measures had included additional trapping, bait insecticides and massive liberation of sterile insects. In addition, movement of host fruits had been suspended, accompanied by communication and dissemination activities. These measures were taken in accordance with the emergency plan for fruit fly-free areas approved by SENASA in 2006. As a result of the measures, the area regained its fruit fly-free status in November 2009.

64. The representative of Madagascar informed the Committee that Madagascar had notified an outbreak of the bee disease varroasis to the OIE. The disease had been observed and identified in one of the regions of the high plateau and measures had been taken. In addition, surveillance in other honey-producing areas had been strengthened.

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

65. No Members provided any information under this agenda item.

(c) Information from Relevant Observer Organizations

66. The representative of the IPPC reminded the Committee of changes to the phytosanitary portal, which now contained a link for providing updates about pest-free areas that had been declared or recognized. Authorized users, i.e. IPPC contact points and IPP editors, can access the link in their country dashboard after logging in. The link is found under optional reporting. General users of the IPPC site can perform an advanced search and select, in the "Type of information" dialogue box, the pest-free areas link under optional reporting to view the pest-free areas reported by contracting parties.

67. The representative of the OIE indicated that the scientific commission of the OIE had elaborated its annual lists of countries free of the four diseases for which the OIE granted official recognition. Currently the lists were in the consultation phase; they would be presented for adoption at the OIE General Session in May. There was a fast-track procedure for countries to recover disease-free status after an outbreak: Swaziland had recovered its FMD-free status without vaccination right after the meeting of the scientific commission. Information on this fast-track procedure and updated country disease status was available on the OIE website.

## VIII. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from the Secretariat

(i) *WTO SPS Activities*

68. The Secretariat introduced two documents, the first on upcoming technical assistance activities and the second summarizing technical assistance provided from 1994 to 2009. Document G/SPS/GEN/997 provided an overview of technical assistance activities planned for 2010, reflecting a new systematic approach aimed at facilitating the planning and organization of such activities. The document provided detailed information on (i) e-Training courses on the SPS Agreement, (ii) how to request national SPS seminars, (iii) the transparency workshop to be held in October immediately preceding the SPS Committee meeting, (iv) regional workshops to be held for the regions of Asia and Pacific; Latin America; and Central and Eastern Europe, Central Asia and the Caucasus, and (v) an advanced course on the SPS Agreement (previously called the "specialized" course). The document contained a chronological table and fact files for each activity with the relevant dates, venues, pre-requisites and eligibility criteria. The deadline for applications for the transparency workshop, the regional workshops and the advanced course was 9 July 2010; for regional workshops and the advanced course the successful completion of an e-Training course was a pre-requisite. A flyer summarized this information so delegates could easily transmit it to colleagues in their capitals.

69. Document G/SPS/GEN/521/Rev.5 provided an overview of SPS technical assistance activities from 1994 to 2009. In 2009, the Secretariat had organized or participated in 21 technical assistance activities, including 13 national seminars, five sub-regional workshops, one specialized course, and two PAN-SPSO conferences.

70. In addition, the Secretariat indicated that it was updating the inter-active CD-ROM, designed to help officials in developing countries become familiar with the SPS Agreement. The Secretariat welcomed suggestions from delegations on issues to cover in this update and training materials to be included. The Secretariat also announced that it would circulate a document it had received from the Agency for International Trade, Information and Cooperation (AITIC), an organization that assisted less advantaged countries to more effectively participate in the WTO (G/SPS/GEN/1009).

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

71. The Secretariat provided an update of the operation of the Standards and Trade Development Facility (G/SPS/GEN/1002). As part of its coordination and information dissemination activities, the STDF had organized a workshop on the use of economic analysis in SPS decision making. This type of analysis had so far found only limited application due to a lack of data and knowledge, but could be useful as a tool to support decision-making processes, enhance transparency and help to convince policy and decision-makers of the need to invest in SPS capacity building by demonstrating the financial benefits and cost-savings. More information about the event, including presentations, podcasts, a two-page briefing note on the conclusions of the workshop, as well as a background report entitled "Guidelines on the Use of Economic Analysis", were available on the STDF website (<http://www.standardsfacility.org>). Briefing notes were also available on SPS risks and climate change, and on fruit fly control in West Africa, as well as a new STDF newsletter. In June 2009, the SPS Committee had seen the STDF film, which had been widely distributed and used in training activities. The film could be downloaded from the STDF website and from YouTube; hard copies could be requested from the Secretariat. In addition, an eight-minute version of the film and an institutional clip were also available to be downloaded, plus links to other films and videos.

72. In December 2009, the STDF Working Group and Policy Committee had adopted a new Operating Plan for 2010 and 2011, available on the STDF website. Two thematic events were planned in 2010. A technical working meeting on SPS indicators, organized in cooperation with the OECD, would be held on 1 July immediately preceding the meeting of the Working Group on 2 July. Delegates with expertise in this area who were interested in participating were invited to contact the STDF secretariat before 30 April. The second event, a workshop on public-private partnerships in SPS capacity building, was planned for later in the year. In the second half of 2010, an STDF pilot project would test various approaches towards economic analysis in at least two developing countries. The STDF was planning to continue its collaboration and coordination with Aid for Trade and with the Enhanced Integrated Framework, and to participate in further activities and initiatives at global and regional levels. The STDF would continue its work with partners in Africa and a scoping study on national SPS coordination mechanisms was currently underway. In December 2009, the STDF Working Group had approved one project preparation grant and four projects. The next deadline for funding applications was 9 April 2010.

73. The representative of Paraguay thanked the STDF for the transfer of the rights to the SPS portal created by STDF project 19. Now the project had finally been concluded.

(b) *Information from Members*

74. The representative of the Philippines provided information on the second phase of a trade-related technical assistance project being implemented in the agriculture and fisheries sectors over four years, with a cost of 7.5 million euros, jointly funded by the European Union and the Philippines. More details were available in document G/SPS/GEN/995.

75. The representative of the European Union indicated that the project was very successful. It had contributed to resolving and avoiding trade disruptions in important export sectors in the Philippines.

76. The representative of Canada announced that a document with information on technical assistance provided in 2007 would be circulated shortly (G/SPS/GEN/1008). Canada had supported 29 projects representing over 48 million Canadian dollars, including the supply of information, training and soft infrastructure to over 24 countries. One contribution of interest consisted of CAN\$11 million to the Global Programme for Highly Pathogenic Avian Influenza (HPAI) Control and Eradication. Canada planned to provide an update on technical assistance provided in 2009 at the next meeting of the Committee.

77. The representative of Saudi Arabia thanked New Zealand and all others who had provided assistance with the new National Notification Authority and Enquiry Point system.

78. The representative of Malawi expressed appreciation for the assistance received from donors. He enquired about Canada's plans for the future; Malawi still required assistance because of the emergence of pests and diseases of concern. The representative of Canada promised to provide the relevant information directly to the representative of Malawi.

79. The representative of Kenya reported on capacity development initiatives in Kenya, thanking donors that were active in the horticulture sector. A project funded by the Netherlands under the World Summit for Sustainable Development (WSSD) partnership on market access had improved the effectiveness of phytosanitary checks, as a result of problems related to exports of cut flowers. It had contributed by developing capacity for quick pest detection, and by designing systems for consistency in export certification. The project had led to the development of early warning systems, had led private sector players to share information on scouting, and made it necessary for the authorities to strengthen surveillance and build pest databases. A project funded by the European Union to develop hard and soft infrastructure in food safety had involved building capacity for chemical analysis to help monitor compliance with MRLs and maximum levels of toxins and contaminants, quick detection of economically important pests, human resource capacity and institutional development, revision of systems for good laboratory practices, surveillance systems for pests and certain food contaminants, and residue monitoring plans. These projects had contributed to enhancing importing country confidence in Kenya's systems. Kenya planned to use these resources to continue supplying high quality horticultural products, particularly to the European Union.

(c) Information from Observers

80. The representative of Codex announced that a comprehensive document on technical assistance would be available for the next meeting of the Committee. She highlighted a few activities that had taken place since the last meeting, including a regional workshop for the Near East funded by the Codex trust fund. Subregional workshops had been held in Tajikistan in February together with WHO Europe, in Montenegro in May also with WHO Europe, and in Moldova organized by FAO Europe. A workshop on risk assessment would be held in conjunction with the next meeting of the Contaminants Committee in Turkey.

81. The representative of the IPPC recalled that he had already reported on three STDF projects earlier in the meeting. IPPC was working with a group of Russian-speaking experts to become facilitators for technical assistance in the region, including for application of the phytosanitary capacity evaluation tool. A new strategic framework for building phytosanitary capacity covered the strategic areas of: national phytosanitary planning and management, participation in standard setting and implementation, communication and coordination, pest information, resource mobilization, advocacy, and monitoring and evaluation. It comprised a concept of what phytosanitary capacity building was about; logical frameworks, including indicators; and a work plan covering six years, detailing activities in the strategic areas where partners could contribute to capacity building. This document was available on the IPPC website ([https://www.ippc.int/index.php?id=1110702&tx\\_publication\\_pi1\[showUId\]=217665](https://www.ippc.int/index.php?id=1110702&tx_publication_pi1[showUId]=217665)).

82. The representative of the OIE indicated that there had been an expert meeting to revise the Tool for the Evaluation of Performance of Veterinary Services (PVS), which would be provided to the Committee after endorsement by the OIE General Session in May. Seminars had been held for new delegates and for focal points, with the support of the European Union and others. More information was available from regional and subregional OIE representatives.



83. The representative of the ITC reported that the Bangladesh quality support programme had been completed in December 2009. This programme had trained local trainers who customized ITC's standard SPS training materials. The ITC had completed STDF project 69 to improve capacity for ensuring the quality and safety of Yemeni seafood products. ITC was also engaged in a multiagency project on non-tariff measures, in cooperation with UNCTAD, to collect data on these measures. Another project on trade for sustainable development was building a web-based tool on voluntary sustainability standards. More information on these and other projects is contained in document G/SPS/GEN/1006.

84. The representative of OIRSA indicated that OIRSA would develop new phytosanitary programmes in support of certain agricultural production chains. Information on other specific projects and technical assistance activities was provided in document G/SPS/GEN/1007.

85. The representative of IICA provided information on three SPS-related technical assistance activities, described in more detail in document G/SPS/GEN/1003. STDF project 108 devised a methodology for developing phytosanitary hazard profiles at the border post level. A second project, in cooperation with USDA, had focused on effective participation in certain Codex Committees. It had established a competitive fund, which had financed 13 countries' participation in Codex meetings. In addition, IICA had elaborated manuals of good practices for participation in WTO, Codex, OIE and IPPC. These manuals were available on the IICA website and would be provided to the WTO Secretariat for inclusion on the training CD-Rom.

86. The representative of the World Bank explained that many World Bank activities dealt with SPS issues in an ancillary manner. The World Bank had been involved in the STDF programme on fruit fly control in West Africa. Regarding animal health, in the context of the HPAI pandemic the World Bank had made available US\$500 million to improve veterinary services, laboratory capacities, and human public service infrastructure. Following the influenza A/H1N1 outbreak in Mexico, the World Bank had made funds available to help Mexico manage this outbreak. Following the influenza A/H1N1 pandemic, a joint OIE, FAO and World Bank project had developed a biosecurity document which would soon be available for Members' use. On food safety, there were agricultural projects in Central Asia which had an important safety component. One of the biggest agribusiness projects in China also had an important food safety component. Following the food crisis, at the last G8 meeting donors had pledged US\$20 billion for food security. Now a global agriculture and food security trust fund was being set up at the World Bank to address food security issues. He encouraged developing countries to monitor this fund and use its resources.

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

(a) Issues Arising from the Second Review

(i) *Use of Ad Hoc Consultations*

87. The Secretariat recalled that as part of the Second Review of the operation of the SPS Agreement, the Committee had encouraged Members to "make use of the possibility for ad hoc consultations". Argentina and the United States had submitted proposals in 2008, and a joint proposal in early 2009. This joint proposal had been the basis for the first version of the Secretariat document G/SPS/W/243, circulated in September 2009. The current revision took on board comments received at the October 2009 meeting and subsequently (G/SPS/W/243/Rev.1). Some Members were concerned about how this proposed procedure was linked to a similar procedure to resolve concerns related to non-tariff measures, sometimes called the horizontal mechanism, being discussed in the NAMA negotiations. In the NAMA context, a new proposal (TN/MA/W/106/Rev.1) and comments provided by the United States (Job/MA/4) had been discussed in early February 2010. A number of

open issues remained, including the question whether SPS measures would be covered by the proposed NAMA mechanism. NAMA meetings were taking place during the same week as the SPS Committee meeting, including discussions on the proposed mechanism.

88. Regarding the revised document (G/SPS/W/243/Rev.1), the Secretariat explained that Brazil (G/SPS/W/248) and Mexico (G/SPS/GEN/989) had provided documents commenting on the Secretariat draft; in addition Mexico had provided comments on Brazil's document (G/SPS/GEN/988). Six Members had provided comments in writing. Some included suggestions to improve the drafting, others suggested more fundamental changes. In some instances comments went in opposite directions, so that it had been impossible to reflect them all.

89. The representative of Brazil highlighted some of the comments contained in document G/SPS/W/248. Brazil believed that it was important that a first meeting be held among the parties to the ad hoc consultations. Consultations should not be the first option to resolve a trade concern, but used to help advance difficult issues. Brazil had suggested a 180 day timeframe for the conclusion of the consultations. Brazil had also suggested that the request for consultations and the response should be circulated to the SPS Committee. These changes had not been reflected in the revised Secretariat document and Brazil suggested including all suggestions in square brackets.

90. The representative of India stressed the need for a meaningful procedure to resolve trade concerns, such as the horizontal mechanism being negotiated in the NAMA context, which would also be relevant for SPS measures. This proposed mechanism had the support of more than 100 Members, and was at a mature stage of negotiations. The mechanism would strengthen the relevant committees, including the SPS Committee, and in India's view it would not be appropriate to develop a parallel procedure in the SPS Committee. The value addition of the proposed committee-first approach was unclear; one meeting of the SPS Committee was unlikely to lead to a solution. In addition the proposed NAMA mechanism included other aspects such as third party rights.

91. The representative of Argentina agreed with India about the need for an efficient flexible way to resolve trade concerns, whether in the NAMA or in the SPS context. Argentina was one of the co-sponsors of the horizontal mechanism in the NAMA negotiations, which had been discussed for a long time and was outside the reach of the SPS Committee. It was not for the SPS Committee to decide whether the horizontal mechanism should apply to SPS measures or to agricultural products. On the other hand, Article 12 was part of the SPS Agreement, so the SPS Committee had a mandate in this regard and Argentina did not understand the reluctance of some Members to discuss the Secretariat document. While Argentina was ready to adopt the draft document at the present meeting, it was also willing to consider improvements if India and others provided specific suggestions. It seemed all Members shared the same objective, so they should work constructively on improvements.

92. The representative of Pakistan shared the concerns raised by Brazil and India. Even if the horizontal mechanism took a long time, any mechanism adopted needed to be effective. This involved ensuring mandatory steps and timeframes. After a certain period of time, unresolved concerns should be moved from the SPS Committee agenda to a different mechanism for resolution.

93. The representative of the European Union supported the views expressed by India. While the Secretariat text was a good draft, many Members preferred to focus on the horizontal mechanism.

94. The representative of the Philippines noted that both proposals had the same objective. However; the SPS Committee should not pre-empt a decision in the NAMA context, where the horizontal mechanism already had the support of more than 100 Members. The SPS Committee could revisit the proposal once it had a clear picture of the NAMA outcome, to ensure coherence.

95. The representative of Chile recalled that the discussions in the SPS Committee had started before the NAMA discussions on the horizontal mechanism; on the basis of Article 12.2 of the SPS Agreement. Any guidelines adopted by the SPS Committee could be revised to ensure coherence with a NAMA mechanism once that was adopted.

96. The representative of Hong Kong, China, indicated that the Secretariat proposal could help ensure a more effective and efficient application of the SPS Agreement. At the NAMA meeting that morning, the views on whether SPS measures should be included in the NAMA mechanism remained sharply divided. The horizontal mechanism proposal had 100 co-sponsors, but some thought it should not cover SPS measures because of their technicality. It was not certain that the NAMA negotiations would be able to resolve the divide among Members on the scope. Since the SPS Committee had spent years on this issue, he invited Members to contribute more constructively, and give more favourable consideration to the current proposal. The Committee could improve the proposal and adopt it without waiting for NAMA, as positions on the horizontal mechanism remained very divided.

97. The representative of the United States noted that since more than 190 specific trade concerns had been raised in the SPS Committee. Members should focus on the way forward on how to resolve these trade concerns. As with comments from Argentina that there needed to be some flexibility in this mechanism, the United States noted that the guidelines contained in G/SPS/W/243 were drafted to provide sufficient flexibility to allow consulting Members to shape their consultations to meet their specific needs. The United States was willing to work with Brazil to find a way forward. Some Members seemed to be reluctant to resolve these trade concerns on the basis of science, as required in this forum, preferring a different forum with less focus on science.

98. The representative of Japan agreed that Article 12.2 was for the SPS Committee to address, and the SPS Committee should complete this issue which had come up during the second review.

99. The Chairperson reminded the Committee that her good offices were available, even to resolve this matter related to good offices. Members would be duplicating efforts in vain if the matter were neither resolved in the SPS Committee nor in NAMA. The Committee had been working on this issue since the Second Review had concluded in 2005. Now in 2010 there was still no result for something that had been extensively discussed, although there was a proposal on the table that reflected Members' comments. Regarding the timing issue, she understood that Members were willing to find a conclusion. If a solution were found, this would justify the Committee's efforts. She invited Members who had different opinions to work together to try to resolve the issue and asked the Secretariat to reflect Members' comments in the draft document. The Committee would hold informal consultations on this issue before the next regular meeting with the aim of finding a consensus.

(b) Third Review

(i) *Report on the Informal Meeting*

100. The Chairperson reported that at the informal meeting of the SPS Committee on the Review of the Operation and Implementation of the SPS Agreement, held on 16 March 2010, Members had discussed the revised draft report of the Third Review, G/SPS/W/237/Rev.2, and the recommendations contained therein.

101. The Chairperson had recalled that, according to the agreed timetable for the Review, the Committee was supposed to have completed the Third Review in 2009. Unfortunately, that had not happened at the October 2009 meeting of the Committee. The Chairperson had hence noted that her intention was to consider the revised draft report of the Third Review at the informal meeting, with a view to its adoption at the regular meeting.

102. The Chairperson reported that, during the discussions at the 16 March informal meeting on the Review, Members had raised no objections to most of the recommendations suggested in the revised draft report. Where Members had suggested revisions on which there seemed to be a consensus, the Secretariat had offered to prepare a Room Document which showed all of the suggested changes to G/SPS/W/237/Rev.2. The Chairperson had concluded the informal discussions by noting that she would propose that the Committee adopt the revised draft report contained in document G/SPS/W/237/Rev.2, subject to the changes reflected in the Room Document, at the regular meeting of the Committee.

(ii) *Adoption of the Report*

103. The Secretariat drew attention to a Room Document which presented the proposed changes to the draft report on the Review (G/SPS/W/237/Rev.2), as discussed during the informal meeting of 16 March. The discussion on the revised draft report of the Review focussed on the recommendations contained under each section of the report. Members had no specific objections to most of the recommendations suggested in the revised draft report, or to most of the proposed changes which had been reflected in the Room Document.

104. The Committee's discussions focused mainly on SPS-related private voluntary standards and on some proposed changes to the text of the related recommendations. Following the discussions, a tentative agreement was reached on a number of final modifications to the report. The report on the Third Review of the Operation and Implementation of the SPS Agreement was adopted on an *ad referendum* basis, with the deadline for objections set for 15 April 2010. No objections to the adoption of the report as agreed at the March 2010 meeting were received by that date.

105. The final adopted text of the Report on the Review of the Operation and Implementation of the SPS Agreement is contained in document G/SPS/53.

## **X. MONITORING ON THE USE OF INTERNATIONAL STANDARDS**

(a) New Issues

106. No new issues were raised under this item.

(b) Issues Previously Raised

(i) *Draft NAPPO Regional Standard: Guidelines for Regulating the Movement of Ships and Cargoes Aboard those Ships from Areas Infested with the Asian Gypsy Moth (RSPM N 33)*

107. The representative of Korea stated that Canada, Korea, and the United States had held technical consultations on this issue in Korea in February 2010. He hoped that NAPPO countries would continue to have discussions with the concerned countries with a view to minimizing the negative trade impact of this regional standard.

## **XI. CONCERNS WITH PRIVATE AND COMMERCIAL STANDARDS**

(a) Report on Chairperson's Consultations

108. The Chairperson informed the Committee that the ad hoc working group on private standards had held a fruitful meeting on Tuesday, 16 March. At the beginning of the meeting, she had recalled the conclusions from the last meeting of the working group in October 2009 and provided some follow-up information. First, the working group had decided to continue to pursue its work on private standards and had, hence, held its fifth meeting. Second, nine Members and one observer had

submitted written comments on document G/SPS/W/247, entitled Possible Actions for the SPS Committee Regarding Private Standards, by the deadline of 16 December 2010. Third, the Secretariat had circulated a revised version of this document as G/SPS/W/247/Rev.1 on 5 March 2010. Fourth, the Secretariat had, as requested, revised the titles of what had been called the "descriptive report" and the "analytical report." On 10 December 2009, the Secretariat had issued an updated and revised version of G/SPS/GEN/932 entitled "Effects of SPS-Related Private Standards – Compilation of Replies" based on comments from Members.

109. The Secretariat had explained that some of the 12 recommendations in the Possible Actions document had been modified in light of Members' comments and also regrouped, with those which had received most support presented first in the document. In addition, some factual updates had been introduced, for example, on the work of the Codex, the OIE, and the TBT Committee.

110. The representative of Argentina had introduced the MERCOSUR document issued in December 2009 (G/SPS/W/249), indicating that the two priority areas for action should be a mechanism for considering specific trade concerns arising from SPS-related private standards and guidelines on Article 13 of the SPS Agreement.

111. Working group members had had a very constructive discussion on the recommendations and their accompanying texts and neared consensus on some of the recommendations while divergent views had remained on others.

112. It had been agreed that the Secretariat would issue a revised version of G/SPS/W/247/Rev.1 after further consultations with the working group, in time for the next meeting of the SPS Committee in June. The Chair expected that the working group would be able to propose some recommendations for consideration by the Committee during its June meeting.

113. At the end of the working group meeting, the Secretariat had also made reference to a document received from the Global Food Safety Initiative (GFSI) circulated as G/SPS/GEN/1004 and informed the working group of the GFSI annual meeting which had taken place in Washington, D.C. in February 2010. The Secretariat had noted that Members could access a comparison of a number of private standards with Codex standards through the GFSI website.

114. The representative of El Salvador, on behalf of GRULAC members, had expressed their concerns with the effects of private standards on the exports of developing countries. Article 2 of the SPS Agreement established the right to implement measures for the protection of human, animal, plant life or health but such measures needed to be based on science and not on commercial reasons. As stipulated in Article 13, Members needed to formulate and implement positive measures and mechanisms in support of the observance of the provisions of the SPS Agreement by other than central government bodies and take reasonable measures to ensure that non-governmental entities within their territories complied with the relevant provisions of the SPS Agreement. Private standards were deviating from international standards set by the international standard-setting bodies referenced in the SPS Agreement. The Committee needed to do more work to identify priority actions to reduce the negative effects of private standards and GRULAC was ready to pursue the discussions using as a basis the Secretariat document in G/SPS/W/247/Rev.1.

115. The representative of Kenya, referring to paragraph 8 of the submission by MERCOSUR, suggested that the Committee work on clarifying Article 13 of the SPS Agreement. The process of certification for private standards was making it difficult for government agencies to carry out inspections. Some developing countries, which were already having difficulties meeting international standards, were now having even more difficulties in light of private standards.

## **XII. REQUESTS FOR OBSERVER STATUS**

### **(a) Ad hoc observers**

116. The Committee agreed to invite all of the ad hoc observers to participate in the next Committee meeting, including the informal meeting on ad hoc consultations.

### **(b) New requests**

117. The Chairperson noted that new requests for observer status had been received from the Community of Sahel-Saharan States (CEN-SAD), the Economic Community for West African States (ECOWAS), and the Southern African Development Community (SADC). Background information on these three organizations could be found in documents G/SPS/GEN/121/Add. 5, Add. 4, and Add.6, respectively.

118. The Secretariat explained that these requests were submitted in the context of the PAN-SPSO technical assistance project to enhance the participation of African countries in the SPS Committee, through the active engagement of the regional secretariats. The SPS Committee could consider granting these organizations ad hoc observer status, as had been done for IICA and OIRSA.

119. The representative of Kenya stated that the regional economic communities in Africa had increased activities in the SPS area, requiring them to follow closely developments in the SPS Committee. Therefore, Kenya supported a favorable consideration of their requests. The representative of Zambia also supported granting them observer status.

120. The representative of Namibia informed the Committee that Namibia had recently established a national SPS committee and supported the granting of observer status to SADC, which would reinforce effective cooperation in the region.

121. The representative of Malawi said that there was a sizable amount of trade between SADC members and that some SPS issues could be adequately addressed first at SADC and then at the SPS Committee.

122. The representative of Zimbabwe supported the applications of ECOWAS and SADC, which was working towards the harmonization of SPS measures at the regional level and could reflect developments in the Committee in the region.

123. The representatives of Madagascar and South Africa also supported SADC's request.

124. The representative of the European Union said that the European Union had been involved in the PAN-SPSO project and was supportive of granting observer status to these organizations in light of their own experience of how regional integration fostered trade. The European Union was working actively with regional economic communities to promote intra-regional trade on the basis of international standards.

125. The Committee agreed to grant ad hoc observer status to CEN-SAD, ECOWAS, and SADC and invited them to participate in the next meeting of the Committee.

### **(c) Outstanding requests**

126. There was no change in the position of Members with respect to the pending requests for observer status from the Asian and Pacific Coconut Community (APCC), Convention on Biological Diversity (CBD), International Vine and Wine Office (OIV) and the Gulf Customs Council Standardization Organization (GSO). The Committee decided to revert to these outstanding requests at the next regular meeting.

### **XIII. ELECTION OF CHAIRPERSON**

127. The Chairperson explained that the Chairman of the Council for Trade in Goods had been carrying out informal consultations on a slate of names for appointment as chairpersons to the subsidiary bodies of the Council for Trade in Goods in accordance with the established Guidelines for Appointment of Officers to WTO bodies (contained in document WT/L/31). However, these consultations had not been concluded. Therefore, the Committee agreed to postpone the election of its Chairperson to the next Committee meeting in June.

### **XIV. OTHER BUSINESS**

128. No issues were raised under "other business".

### **XV. DATE AND AGENDA OF NEXT MEETING**

129. The Chairperson recalled that the next meeting of the Committee was tentatively scheduled for **29-30 June**. An informal meeting on ad hoc consultations would be scheduled for **28 June**.

130. The Secretariat added that there would be an STDF technical working group meeting on SPS indicators on 1 July and the STDF meeting on 2 July. The Codex Alimentarius Commission would be meeting in Geneva the following week.

131. The Committee agreed on the following tentative agenda for its next meeting:

1. Adoption of the agenda
2. Election of Chairperson
3. Information on relevant activities
  - (a) Information from Members
  - (b) Information from Observer organizations
4. Specific trade concerns
  - (a) New issues
  - (b) Issues previously raised
  - (c) Consideration of specific notifications received
  - (d) Information on resolution of issues in G/SPS/GEN/204/Rev.10
5. Operation of transparency provisions
6. Implementation of special and differential treatment
7. Equivalence – Article 4
  - (a) Information from Members on their experiences
  - (b) Information from relevant observer organizations
8. 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

9. Technical assistance and cooperation
    - (a) Information from the Secretariat
    - (b) Information from Members
    - (c) Information from observers
  10. Review of the Operation and Implementation of the SPS Agreement
    - (a) Issues arising from the Second Review
      - (i) Use of ad hoc consultations – Report on informal meeting
  11. Monitoring of the use of international standards
    - (a) New issues
    - (b) Issues previously raised
    - (c) Adoption of annual report
  12. Concerns with private and commercial standards
    - (a) Report on Chair's consultations
  13. Observers – Request for observer status
  14. Other business
  15. Date and agenda of next meeting
132. Members were asked to take note of the following deadlines:
- (i) For submitting any objections to the ad referendum decision to adopt The Report of the Third Review of the Operation and Implementation of the SPS Agreement: **Thursday, 15 April**;
  - (ii) For submitting comments on the proposed recommended procedure for ad consultations: **Thursday, 15 April**;
  - (iii) For submitting suggestions on the transparency workshop: **Thursday, 15 April**;
  - (iv) For identifying new issues for consideration under the monitoring procedure AND for requesting that items be put on the agenda: **Thursday, 17 June**; and
  - (v) For the distribution of the airgram and the circulation of documents for discussion during the June meeting: **Friday, 18 June**.
-