SPS COMMITTEE PROPOSALS FOR INTERNATIONAL STANDARD SETTING BODIES

The World Organization for Animal Health (OIE) is putting forth a paper (attached) for the next meeting of the World Trade Organization’s Committee on Sanitary and Phytosanitary Measures (SPS Agreement) which proposes that the SPS Committee Chair routinely invite the ‘Three sisters’ (the IPPC, OIE and Codex) to comment, as appropriate, on the bilateral trade concerns placed on the Committee agenda by Members. The scope of the intervention would be to indicate if there is a relevant international standard, recommendation or guideline, and to assist the Committee to locate information that may be relevant to the matter under discussion.

The SPG is invited to:

(1) discuss this proposal, and earlier proposals presented during the June SPS Committee meeting and provide advice to the Bureau and CPM on the issue.
The OIE role in relation to the SPS Committee

This paper provides input to the SPS Committee’s deliberations on the role of observer organisations, specifically the OIE, as one of the ‘Three sisters’.

SUMMARY

In the context of the SPS Committee, the OIE, as one of the ‘Three sisters’, advises on sanitary measures relevant to international trade, including on risk assessment and on the relationship between national measures and the OIE’s science based standards. The application by trading countries of the standards set by the ‘Three sisters’ is the best way to facilitate safe international trade. Active participation by the ‘Three sisters’ is an important feature of SPS Committee meetings and can contribute to the prevention and resolution of trade disputes.

To further strengthen this participation, it is proposed that the SPS Committee Chair routinely invite the ‘Three sisters’ to comment, as appropriate, on the bilateral trade concerns placed on the Committee agenda by Members. For example, the OIE would be invited to speak when the trade concern relates to an animal disease or zoonosis; Codex would be invited to speak when the trade concern relates to a chemical residue issue, and the IPPC would be invited to address concerns about phytosanitary measures. The scope of the ISSO intervention would be to indicate if there is a relevant international standard, recommendation or guideline, and to assist the Committee to locate information that may be relevant to the matter under discussion.

The attention of WTO Members is also drawn to the OIE voluntary procedures for dispute mediation. These procedures are complementary to and do not conflict with the official WTO dispute settlement procedures. Members are encouraged to consider using these procedures to help resolve differences and facilitate safe trade.

BACKGROUND

A workshop on the Relationship between the SPS Committee and International Standard Setting Organisations took place on 26 October 2009. The report of the workshop (G/SPS/R/57) contained 11 recommendations. OIE comments on the recommendations that are directly relevant to its work are in Annex 1.

On 25 June 2012 the Secretariat of the SPS Committee prepared a background document (G/SPS/GEN/1157) to assist Members in their consideration of the role of observers in the meetings of the SPS Committee and related matters.

A communication from the United States and Chile (G/SPS/W/267) on the involvement of ISSOs in the SPS Committee on specific trade concerns was circulated to Members on 3 July 2012.

Matters relating to observer organisations were discussed at an informal meeting, closed to observers, which was held on 9 July 2012.

DISCUSSION

1. The ‘Three sisters’ in the context of the WTO SPS Agreement
The SPS Agreement recognizes the OIE, the International Plant Protection Convention (IPPC) and the Codex Alimentarius Commission, the so-called ‘Three sisters’, as the relevant standard-setting bodies for animal health and zoonotic diseases, phytosanitary issues and food safety, respectively.

The Preamble to the SPS Agreement states “that it is desirable to further the use of harmonized sanitary (…) measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including (…) the International Office of Epizootics” (OIE) 1.

The SPS Agreement also refers to and recognises the standards developed by the ‘Three sisters’ in Article 3 (Harmonization) and in Annex A, paragraph 3:

“International standards, guidelines and recommendations (…) (b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the …(OIE); ”

WTO Members may comply with their obligations under the SPS Agreement by basing their measures on relevant standards of the ‘Three sisters’ or by carrying out a scientific risk analysis, on which subject the ‘Three sisters’ also provide guidance.

2. The standards, guidelines and recommendations of the OIE

The OIE Terrestrial Code and Aquatic Code contain science-based standards for the reporting, prevention and control of diseases and for assuring safe international trade in animals and their products. Use of these standards, including for the transparent and timely notification of animal diseases and as the basis for sanitary measures and international veterinary certification, will prevent the introduction and spread of diseases of animals and, as appropriate, of humans.

The Codes provide guidance on the application, in the animal health context, of key principles found in the SPS Agreement, including risk analysis, equivalence, regionalisation and zoning. In particular the Codes facilitate the application of equivalence by the provision of multiple approaches to risk management.

Additional standards and recommendations (e.g. on disease diagnosis and vaccination) are found in the OIE Manuals for terrestrial and aquatic animals. Resolutions of the OIE World Assembly on the official status of Member countries for specified diseases, such as foot and mouth disease and bovine spongiform encephalopathy, embody the concept of regionalisation and offer important information to support safe international trade in animals and their products. Likewise, the OIE disease reporting and information dissemination functions that support transparency in the global animal disease situation enable Member countries to apply and withdraw appropriate sanitary measures in a timely manner.

The OIE standard setting procedures provide for rapidity, responsiveness, scientific rigour and transparency, as outlined in Annex 2.

In addition to developing standards, guidelines and recommendations, the OIE has an informal mediation procedure, which provides for Members, on a voluntary basis, to resolve trade differences using an approach that is based on science and the correct application of the OIE standards. Reports of mediations are confidential to the Parties, unless the Parties have mutually agreed to the release of information.

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1 Now known as the World Organisation for Animal Health – while retaining the acronym ‘OIE’. 
3. The OIE contribution to the work of the SPS Committee

The OIE, as one of the ‘Three sisters’, provides regular updates to the SPS Committee on OIE activities relevant to standard setting, including on strategic issues and planning; relationships with other organisations, and capacity building activities to strengthen the capacity of Member countries not only to apply the standards but also to participate in their development. The OIE maintains ongoing contact with the SPS Secretariat and makes regular interventions at Committee meetings to clarify the interpretation of its standards. The OIE emphasises science and transparency as the appropriate basis for the development and implementation of sanitary measures.

The discussion of bilateral trade concerns relating to animal diseases and zoonoses is a key part of the SPS Committee agenda. Here, the OIE provides advice relevant to the consistency of national measures with relevant international standards, guidelines and recommendations, and on new and emerging diseases of importance to trade.

The animal health related trade concerns that WTO Members discuss at Committee meetings often concern measures relating to bovine spongiform encephalopathy, foot and mouth disease or influenza. The failure of WTO Members to fully implement the OIE standards – in particular, those providing a basis for safe trade in relation to these diseases – is often a factor in these discussions. The OIE urges Member countries to give higher priority to the implementation of the OIE standards as a key step to facilitate safe trade in animals and their products.

Under the SPS Agreement, WTO Members applying measures for animal diseases and zoonoses that are more restrictive than the OIE standards should conduct a science-based risk assessment as a basis for the measures. Here, again, the OIE can advise regarding the quality of risk assessments with reference to the OIE scientific standards and recommendations.

In the case of bilateral disagreements about trade measures, the OIE offers a voluntary mediation mechanism that is relatively rapid and less costly than the official WTO dispute settlement procedure. The emphasis is on transparency and the application of the OIE science based standards as appropriate to the specific trade issue. The OIE encourages WTO Members to make more use of its mediation mechanism as a tool to resolve differences and facilitate safe trade.

4. Capacity building to promote the implementation of SPS standards

SPS capacity building is an important means to enhance the participation of OIE Members in the development of standards, to improve understanding and ‘ownership’ of standards and to raise awareness of the obligations that arise from the SPS Agreement. The OIE undertakes training and capacity building activities in collaboration with donors, national governments, and international and regional organisations, including joint OIE/FAO/WHO programmes to ensure seamless coverage of SPS issues relevant to animal and human health. The PAN-SPSO project is a good case study for the importance and potential gains to be made by strengthening the participation of developing countries in standard setting activities.

The WTO Standards and Trade Development Facility (STDF), formed as a joint initiative of the OIE, WHO, FAO, World Bank and WTO with the goal of enhancing developing countries’ capacity to meet

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2 PAN-SPSO is a partnership project between the African Union, the European Commission and the Africa Caribbean Pacific Secretariat (ACP) on behalf of 7 African Regional Economic Communities. It involves 47 African countries.
SPS standards, is a key forum for exchange of relevant information on SPS capacity building activities. In addition to participating in STDF meetings and activities, the OIE regularly updates the SPS Committee about its capacity building programme. Representatives of the SPS Secretariat and the STDF Secretariat are invited to the OIE General Session, as well as OIE global conferences and other meetings relevant to the SPS agenda. The Director General of the OIE routinely informs Delegates of SPS related activities and, where feasible, OIE activities may be held ‘back-to-back’ with SPS workshops.

CONCLUSIONS AND RECOMMENDATIONS

Under the WTO SPS Agreement, the ‘Three sisters’ are responsible for the provision of standards, guidelines and recommendations to support safe international trade. In the context of the SPS Committee, the OIE specifically advises on sanitary measures relevant to international trade in animals and their products, including on risk assessment and on the relationship between national measures and the OIE’s science based standards. Active participation by the ‘Three sisters’ is an important feature of SPS Committee meetings.

To further strengthen this participation, it is proposed that the SPS Committee Chair routinely invite the ‘Three sisters’ to comment on the bilateral trade concerns placed on the Committee agenda by Members, as appropriate. For example, the OIE would be invited to speak when the trade concern relates to an animal disease or zoonosis. The scope of the intervention would be to indicate if there is a relevant international standard, recommendation or guideline, and to assist the Committee to locate information that may be relevant to the matter under discussion.

The attention of WTO Members is also drawn to the OIE voluntary procedures for dispute mediation. These procedures are complementary to and do not conflict with the official WTO dispute settlement procedures. Members are encouraged to consider using these procedures to help resolve differences and facilitate safe trade.
Annex 1

OIE comments on the recommendations of the SPS Committee Workshop

(2) Increasing the number of joint capacity building activities
Subject to the availability of resources, the OIE could support such an initiative.

(3) Joint work on cross cutting issues
Following a decision of the Codex Committee on General Principles, the OIE and the Codex Alimentarius Commission are preparing collaborate in new work on the harmonisation of approaches to standard setting.

(4) Coordination meetings of the Three sisters and the WTO Secretariat
The OIE supports this proposal.

(7) The SPS Committee transmitting information relating to trade issues...to the relevant Sister organisation) and
(8) Requesting the Three sisters to analyse the current specific trade concerns raised in the SPS Committee...

The OIE considers that the most effective way to address points 7 and 8 is by strengthening the participation of the ‘Three sisters’ in the Specific Trade Concerns item of the regular Committee agenda.

(10) Identifying ways to improve coordination at national level of the relevant representatives of the Three sisters and SPS representatives
The OIE recommends continued emphasis on the SPS regional workshops, where relevant national representatives are encouraged to communicate and to form networks at regional level.

(11) The establishment of a ‘help desk’ to answer enquiries and provide information in each of the Three sisters and the WTO Secretariat.
Enquiries on SPS related matters from national governments, the private sector and NGOs are handled by the OIE International Trade Department.
The OIE standard setting procedures: key aspects relating to transparency

- Standards are drafted by independent experts drawn from different OIE regions and selected on the basis of scientific excellence and geographical balance. Mechanisms are in place to ensure the neutrality and scientific integrity of experts appointed to work with the OIE.
- All reports of ad hoc expert Groups are reviewed by Specialist Commissions, comprising elected members, and, as appropriate, by Working Groups. These reviews particularly consider the proposed risk management options.
- Reports of Specialist Commissions, Working Groups and ad hoc expert Groups are made available to Members and the public via the OIE website.
- OIE Member Countries have scheduled opportunities to comment on draft standards.
- Member Country comments are reviewed by the Specialist Commissions, which advise Delegates of their analysis and decisions on these comments by report on the OIE website.
- All standards are adopted by the World Assembly, usually by consensus or, in rare cases, by a two thirds majority vote.
- Each one of the 178 OIE Member Countries has an equal voice in the development and adoption of standards and each has a responsibility and an opportunity to engage with the OIE in this important work.
INTERNATIONAL STANDARD-SETTING BODIES INVOLVEMENT IN THE
WTO SPS COMMITTEE IN SPECIFIC TRADE CONCERNS

Proposal by Chile and the United States

The following communication, received on 29 June 2012, is being circulated at the request of the Delegations of Chile and the United States.

The World Trade Organization's (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures ("the SPS Agreement") emphasizes to Members a series of important principles such as harmonization, equivalence, risk assessment and regionalization. The Agreement also recognizes the important role of three international standard setting bodies (ISSBs), the Codex Alimentarius Commission, the World Organization for Animal Health and the International Plant Protection Convention.

Under the Agreement, Members are encouraged to harmonize their SPS measures whenever possible with the standards, guidelines and recommendations adopted by the ISSBs.

Members also have the right under the SPS Agreement to take measures that establish a higher level of protection to protect human, animal and plant health than an international standard, guideline or recommendation, provided that these measures are based on an assessment of the risk and take into account risk assessment techniques developed by the relevant international organizations.

The ISSBs, play an important role in helping Members ensure that their measures are science-based, protect health and facilitate trade.

Given-that there are occasions when discrepancies occur between Members with regards to a specific SPS measure, we encourage all Members to consult with the ISSBs for assistance in the application of international standards, guidelines, and recommendations whenever possible.

Our Committee has actively sought assistance from the ISSBs on principles such as regionalization, equivalence, assessment of risk, and harmonization. Their input has also been very helpful to assist Members in meeting the aims of the SPS Agreement and to reconcile differences between and amongst Members.

In terms of risk assessment, while no guidelines have been developed by the SPS Committee, there are international standards developed by the three ISSBs in the field of risk analysis in their respective areas of expertise.
We encourage all Members to refer to these guidelines in developing their own risk analysis processes for their SPS measures. Further, we encourage Members to actively support the ISSBs and encourage the ISSBs to add advice and counsel when specific trade concerns arise regarding their own standard guideline or recommendations.

We believe that the ISSBs have a strong role to play in helping us to address longstanding trade concerns. For example, when any discrepancies arise between Members, the ISSBs have often offered to help Members address such concerns through their alternative dispute resolution mechanisms as long as all Members understand that the opinion of the international organization in this instance is not binding.

To reinforce the ISSB's important role in the resolution of specific trade concerns, the Committee should encourage Members to seek the ISSB's counsel on specific standards, provided that the ISSB concerned is able and agrees to perform the requested study. The ISSB should be asked to provide advice regarding its own standards, guidelines or recommendations.

All Members must have the same possibility to request a study by an ISSB of another Member's application of a measure based on international standards.

If one Member requests a study by an ISSB of another Member's application of the standards that serve as the basis for the measure, they should notify the other Member in advance of the request to the ISSB. Members are encouraged to work together on these reviews whenever possible.

Members are encouraged to notify the Committee of their request prior to commencement of a study by the ISSB.

Once the review process has been completed, the ISSBs are encouraged to share guidance related to the request with the Committee provided the Members involved have given their consent and confidential information is protected.
Remarks by Argentina

Argentina would like to thank Chile and the United States for their communication G/SPS/W/267. Generally speaking, we fully agree with the basic elements underlying the document. Firstly, we agree on the importance of improving any non-judicial mechanisms for addressing trade concerns in an efficient, pragmatic and flexible manner. We have mentioned on several occasions that while the mechanism currently in place in the SPS Committee is useful, it is not always effective or sufficient, and recourse to the dispute settlement mechanism tends to be complex and burdensome, in particular for the developing countries. Consequently, Argentina welcomes any initiative that can help to improve the functioning of the mechanisms currently in force. Secondly, we also agree on the importance of strengthening the role of the "three sisters" in the SPS Committee, especially when it comes to examining and clarifying the scope and content of their own standards and regulations. Their technical knowledge, experience and objectivity can be of considerable value in helping Members to understand technical and legal issues, and can thus contribute to settling trade conflicts.

We should remember, however, that since the Second Review of the operation of the SPS Agreement, the Committee has been working on regulating the use of the good offices of the Chairperson. This mechanism, which we openly support, includes the possibility of seeking technical advice. Thus, we think that both initiatives (i.e. G/SPS/W/267 and G/SPS/W/259/Rev.4 on good offices) should be considered jointly, in a systematized manner. Furthermore, bearing in mind that the work on good offices has already begun, it is important to consider including in that work certain elements of the joint communication, G/SPS/W/267.

Argentina is grateful for having been given this opportunity to make these initial remarks, and reserves the right to make additional comments in the future.
Comments From Japan on Issues Discussed at the Previous SPS Committee Meetings

Japan welcomes the opportunity to provide comments on the issues listed below and appreciates the efforts of the Chair and the Secretariat:

- Observers in the SPS Committee (G/SPS/GEN/1157)
- International Standard-Setting Bodies involvement in the WTO SPS Committee in Specific Trade Concern (G/SPS/W/267)

Our comments are as follows:

Observers in the SPS Committee (G/SPS/GEN/1157)

11 Para.18 of G/SPS/GEN/1157 proposes to employ a guideline stating that observer organisations need to attend the SPS Committee Meeting at least once a year to keep their observer status. Japan draws attention to the distinguished positions of the Three Sisters among the observer organisations, noting that the Three Sisters are referred to as international standard setting bodies in the SPS Agreement. Japan is of the view that the observer status of the Three Sisters should be permanent and suggests that the Three Sisters be excluded from the target of the proposal in Para.18.

International Standard-Setting Bodies involvement in the WTO SPS Committee in Specific Trade Concern (G/SPS/W/267)

12 In general Japan is supportive of the proposal by Chile and the United States in that the proposal encourages the cooperation among the SPS Committee and International Standard Setting Bodies (ISSBs). Japan is of the view that it is beneficial to request ISSBs to provide relevant information on specific international standards, including their scientific basis or background information, which may facilitate the discussion on specific trade concerns.

13 Nonetheless, further clarification might be needed on the following points in case one Member is to request the ISSBs’ advice or study regarding the other Member’s own standards and the results are to be presented and affect the discussion in specific trade concerns in the SPS committee.

-Whether it is possible that each ISSB could conduct assessments on SPS measures that Members are practicing at national level? Capabilities to cope with such request could be different depending on its organisational structure of each ISSB. For instance, Japan understands that Codex Alimentarius Commission does not have functions to perform scientific evaluations or reviews on SPS measures in each Member. In addition, considering limited resources of the ISSBs, another point which is worth countries' attentions may be how much human and financial
resources the ISSB could actually devote to a requested evaluation. It may be beneficial to invite the ISSB secretariats to comment on these issues.

-What would it mean for Members’ rights and obligations under the SPS agreement and the role of ISSBs as observers in the SPS committee when the ISSBs mention about Members’ SPS measures at the meetings of the SPS committee?
New Zealand comments on

Secretariat note: G/SPS/GEN/1157

For ease of reference, New Zealand’s comments on GEN/1157 have been incorporated into the text of the document.

WORLD TRADE ORGANIZATION

G/SPS/GEN/1157

25 June 2012

(12-3359)

Committee on Sanitary and Phytosanitary Measures

OBSERVERS IN THE SPS COMMITTEE - THEIR ROLE
AND OUTSTANDING REQUESTS

Note by the Secretariat

1. At its meeting of 27-29 March 2012, the Committee agreed to discuss various matters relating to observers at an informal meeting scheduled for 9 July 2012, and requested the Secretariat to prepare a background document and an agenda for this meeting. This background document is intended to assist Members in their consideration of two distinct but related matters: (i) the role of observers - and in particular of international intergovernmental organization observers - in the meetings of the SPS Committee; and (ii) the granting and maintaining of observer status to international organizations.

2. The Committee may wish to take actions as suggested in paragraphs 14, 15, 18, 19, 23 and 24 of the present document.

3. A number of previous documents have addressed various matters relating to observers in the SPS Committee. These include:

<table>
<thead>
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<th>Document</th>
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<tr>
<td>G/SPS/1</td>
<td>Working Procedures of the Committee</td>
<td>Paragraph 7 - grants observer status to Codex, IPPC and OIE, and indicates that other organizations may be invited to Committee meetings in accordance with the General Council guidelines.</td>
<td>4 April 1995</td>
</tr>
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3 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.

4 See para. 135 of G/SPS/R/66.
<table>
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<th>Document</th>
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<tr>
<td>Sessions of the Ministerial Conference and Meetings of the General Council</td>
<td>international intergovernmental organizations granted observer status.</td>
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<tr>
<td>G/SPS/W/95</td>
<td>International Observer Organizations</td>
<td>EC submission proposing criteria for granting observer status</td>
<td>23 November 1998</td>
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<tr>
<td>G/SPS/W/98</td>
<td>Consideration of Requests for Observer Status</td>
<td>Summarized concerns raised by Members regarding the grant of observer status and criteria proposed by Members as most appropriate in the consideration of requests (paragraph 7).</td>
<td>19 February 1999</td>
</tr>
<tr>
<td>G/SPS/GEN/121 + addenda</td>
<td>Applicants for Observer Status</td>
<td>This document and addenda summarize the information provided by the various bodies seeking observer status in the SPS Committee.</td>
<td>15 June 1999, and subsequently for addenda - most recently 15 May 2012</td>
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<td>G/SPS/GEN/229</td>
<td>Criteria for Observer Status</td>
<td>Recalls the criteria agreed by the Committee for granting observer status (G/SPS/W/98, paragraph 7), and recalls the status of requests.</td>
<td>23 February 2001</td>
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<tr>
<td>G/SPS/GEN/253</td>
<td>The Role of International Intergovernmental Observer Organizations in Meetings of the Committee</td>
<td>Notes the SPS Committee Chairpersons' practice of permitting observer organizations to intervene under any agenda item, encouragement that observer organizations submit written reports in advance of meetings, and participation in informal meetings.</td>
<td>12 June 2001</td>
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<tr>
<td>G/SPS/GEN/775</td>
<td>Relationship with Codex, IPPC and OIE</td>
<td>Provides background information on various aspects of the relationship between the implementation of the SPS Agreement and the work of the Codex, IPPC and OIE.</td>
<td>15 May 2007</td>
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<tr>
<td>G/SPS/R/57</td>
<td>Summary Report of the Workshop on the Relationship between the SPS Committee and the International Standard-setting Organizations</td>
<td>Report of the 26 October 2009 workshop, including 11 recommendations to enhance this relationship (para. 28).</td>
<td>22 February 2010</td>
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<tr>
<td>G/SPS/GEN/1112</td>
<td>Outstanding Requests from International Intergovernmental Organizations</td>
<td>Summarizes the Committee's working procedures for considering requests for observer status and suggests the categorization of pending</td>
<td>30 September 2011</td>
</tr>
</tbody>
</table>
4. The SPS Committee has granted observer status to 15 international intergovernmental organizations and to the International Organization for Standardization (ISO) - hereinafter referred to as "observer organizations". The Committee granted observer status to the Codex, OIE and IPPC in March 1995; to the FAO and WHO in June 1995; to ISO and ITC in November 1995; to UNCTAD in March 1996;\(^5\) to the World Bank and the IMF in November 1996,\(^6\) and on an ad hoc meeting-by-meeting basis since November 1999 to ACP, EFTA, IICA, OECD, OIRSA and SELA; also on an ad hoc basis since March 2010 to ECOWAS, CEN-SAD, SADC, and since June 2010 to WAEMU and AITIC. Decisions on requests from 11 other organizations are pending.

1. **Proposed Agenda for Informal Meeting**

5. In light of the above, it is proposed that at the informal meeting of 9 July 2012, the Committee considers the following:

1. Relevant background information, including this note;
2. Clarification of the desired role of observer organizations in the meetings of the SPS Committee;
3. Review of current practices regarding extension of invitations to ad hoc observer organizations;
4. Consideration of outstanding requests for observer status.

6. The remainder of this document is structured along the lines proposed above; addressing points (2), (3) and (4).

**Role of Observer Organizations**

7. As stated by the General Council, the purpose of observer status for international organizations in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them. Observer status should accordingly be considered for organizations with competence and a direct interest in trade policy matters, on a case-by-case basis, taking into account the nature of work of the organization, its membership and the number of WTO Members in the organization, and whether it provides reciprocity of access to proceedings, documents, etc.\(^7\)

8. At its March 1999 meeting, in deciding on requests for observer status, the SPS Committee agreed to apply the criteria identified in paragraph 7 of document G/SPS/W/98, and also agreed that, as an interim step, such requests would be granted only on an ad hoc, meeting-by-meeting basis. In

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\(^5\) Codex, OIE, IPPC, FAO, WHO, ISO, ITC and UNCTAD were granted "regular" observer status in March 1997.

\(^6\) Observer status in WTO subsidiary bodies was provided through the WTO Agreements with the Fund and World Bank (WT/L/194 and paragraph 6 Annex I and paragraph 5 Annex II of WT/L/195).

\(^7\) See WT/L/161, Annex 3.
particular, it was decided that the Committee should consider the mandate, scope and area of work covered by the organization and that "observer status should be granted to organizations which objectively contributed to the functioning and implementation of the SPS Agreement" (G/SPS/R/14, paragraphs 58-61).

9. In practice, the Committee has requested that observer organizations provide information on any of their activities that are relevant to the functioning and implementation of the SPS Agreement or to the work of the SPS Committee. They are encouraged to submit written reports on their relevant activities in advance of Committee meetings, and to highlight the most important aspects of these reports at the meeting. Observer organizations have also been encouraged to speak on any item of the agenda that is relevant to their work, such as technical assistance, after all interested Members have been given the floor. Observer organizations have, on occasions, been specifically requested by the Chairperson to provide information with regard to a specific issue before the Committee.

10. A review of the summary reports of the Committee's meetings over the past ten years indicates that observer organizations have intervened not only to provide information on their relevant activities, but also to clarify factual, scientific or technical information related to the relevant international standards or to the observer organization's field of expertise. This was particularly noteworthy with regard to the Committee's discussions and eventual development of guidelines on the implementation of Article 4 on equivalence, and of Article 6 on regionalization, and has also occurred with respect to some specific trade concerns. The observer organizations also regularly provide information regarding their technical assistance programmes.

Role of the Three Sisters

11. The three "sister" organizations, whose standards, guidelines and methodologies are explicitly referred to in numerous provisions of the SPS Agreement, have also provided information regarding their standard-setting processes, dispute resolution procedures, and strategic planning. The standing agenda item on monitoring the use of international standards also provides a regular opportunity for discussion of the use of existing standards, or identification of perceived needs for the development of new standards. The three organizations have, to date, taken prompt action to address specific issues raised through the monitoring procedure, and have kept the Committee informed of their relevant follow-up actions.

12. A workshop held in October 2009 examined the relationship between the Codex, IPPC, OIE and the SPS Committee and put forward recommendations on how to enhance this relationship.8 In the Third Review of the Operation and Implementation of the SPS Agreement, the Committee agreed to follow-up on the recommendations from the workshop9 These recommendations are annexed for ease of reference.

13. The Committee has already acted on recommendations 1, 3 and 6, changing the order of items on the agenda of its meetings, and has already received information from the Three Sisters regarding their collaborative work on cross-cutting issues, as well as on their strategic planning. With respect to recommendations 2 and 5, a number of joint training activities are organized for 2012, but reduced funds available for WTO technical assistance, as well as funding constraints in the other organizations, have limited the possibility to increase joint training and to hold coordination meetings. Recommendation 10 was addressed at the October 2011 workshop on coordination at the national level, and the IPPC, at least, has established a "Help Desk" in line with recommendation 11.

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8 G/SPS/R/57.
9 G/SPS/53, para. 134.
14. In terms of recommendation 7 - transmitting information relating to trade issues linked to the non-use of standards, absence of standards, or inappropriate standards to the relevant Sister organization - this is in part already addressed by the formal transmission to the Three Sisters of the Committee's annual report on the monitoring of the use of international standards. The Secretariat also draws attention to trade concerns that relate to food safety, plant protection, or animal health, in its respective reports as an observer to the Codex Alimentarius Commission, the Commission on Phytosanitary Measures, and the General Session of the World Assembly of OIE Delegates. However, the Committee may wish to consider other means for the implementation of these recommendations.

New Zealand comments on paragraph 14

Recommendation 7: The SPS Committee transmitting information relating to trade issues linked to non-use of standards, absence of standards, or inappropriate standards to the relevant Sister organization;

New Zealand sees a resourcing problem here with the non-use of standards in that even though information may be transmitted to the ISSBs, what is the mechanism (if any) to action. ( Assumes that the ISSBs don’t track the use/non-use of standards themselves.)

Regarding the absence of standards, we suggest the SPS Committee (Secretariat) could formally request that a particular “need” be added to the particular ISSB’s standards development programme. Likewise with inappropriate standards the concern of the Committee could be officially relayed to the ISSB

15. Finally, the Committee may wish to consider how to implement recommendation 5 to ensure equivalence among results of standards on related products, and recommendation 9 to make better use of the information regarding the use of international standards which is available from the SPS notifications.

3. Participation of Observer Organizations

16. In 1997, the Committee granted "regular" observer status to eight organizations, and two others were granted observer status as of 1996 as part of separate WTO reciprocity agreements. Since that time, however, the Committee has granted observer status only on an ad hoc, meeting-by-meeting basis. At the end of each of its regular meetings, the Committee decides whether and which of these organizations to invite to participate in the next regular meeting of the Committee. In practice, the Committee has decided to invite all ad hoc observer organizations to its subsequent meeting, and has normally also invited all observer organizations to participate in its informal meetings as well.

17. It is apparent from the records of the Committee meetings that the degree of participation of the observer organizations varies considerably. Some of the observer organizations - both regular and ad hoc - have participated regularly in virtually all of the Committee's meetings since they became observers, and routinely provide written reports of the activities, as requested by the Committee. This is the case, for example, not only of the Codex, IPPC and OIE, but also of IICA and OIRSA. Other observer organizations have participated periodically over the years, including the FAO, ISO, ITC, OECD, UNCTAD, WHO, World Bank and ACP Group. For several observer organizations, there is no record of their participation in recent years, including the IMF, EFTA and SELA, and one observer organization has ceased to function (AITIC).

18. Although it has not done so previously, the Committee may wish to apply the General Council's guideline which indicates that if an observer organization does not attend meetings for any one-year
Committee Proposals for International Standard Setting Bodies

New Zealand comments on paragraph 18

New Zealand supports the implementation of WT/L/161, Annex 3, Para 10: “If for any one-year period after the date of the grant of observer status, there has been no attendance by the observer organization, such status shall cease.”

However we think that the observers should be given a “warning” and/or a chance to confirm that they either no longer exist (e.g. AITIC) or are no longer interested/appropriate, e.g. the IMF, EFTA and SELA.

19. In addition, in light of its long-standing practice of inviting all ad hoc observer organizations to participate in the next regular meeting of the Committee, the Committee may wish to avoid the disruptions and delays created when it requests observer organizations to leave the room while it considers this matter at the end of each meeting. Instead, the Committee may wish to adopt the process agreed by the Committee on Agriculture, and to invite the ad hoc observer organizations to participate in all meetings of the Committee for the following year, unless a Member requests otherwise.

New Zealand comments on paragraph 19

New Zealand supports the Committee adopting the process agreed by the Committee on Agriculture, and to invite the ad hoc observer organizations to participate in all meetings of the Committee for the following year, unless a Member requests otherwise, with those observers that had not attended in the previous year (and having been “warned/advised”) not being invited.

4. Outstanding Requests for Observer Status

20. As noted above, the Committee currently has 11 outstanding requests for observer status. Following each regular meeting of the Committee, the Secretariat must contact each of these organizations to inform them that the Committee has not yet reached a consensus regarding their respective request, and that the matter will be considered at the subsequent meeting of the Committee.

21. In September 2011, the Secretariat suggested a possible classification of the organizations whose observer request was outstanding, in order to facilitate the Committee's consideration of these requests. The suggested categories, according to the nature of work of the organization and its membership, were:

- (a) African regional secretariat and development bodies (four requests including the latest one from the African Union);
- (b) Other regional bodies (one request);
- (c) Commodity-specific organizations (three requests);

10 G/SPS/L/161, Annex 3, para. 10.
11 G/SPS/GEN/1112.
(d) International "scientific" organizations (one request); and

(e) Other global bodies (two requests).

22. In December 2011, those organizations whose request had been submitted before 2009 were asked to re-confirm this request. The table below indicates the current status of these requests classified according to the above-mentioned categories.

<table>
<thead>
<tr>
<th>Outstanding intergovernmental organizations</th>
<th>Application received on</th>
<th>Application renewed on</th>
<th>Background information</th>
</tr>
</thead>
<tbody>
<tr>
<td>African regional secretariats and development bodies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AU</td>
<td>13 September 2011</td>
<td>2 January 2012</td>
<td>Add.14</td>
</tr>
<tr>
<td>COMESA</td>
<td>15 February 2011</td>
<td></td>
<td>Add.12</td>
</tr>
<tr>
<td>ECCAS/CEEAC</td>
<td>8 January 2011</td>
<td></td>
<td>Add.10</td>
</tr>
<tr>
<td>IGAD</td>
<td>11 March 2011</td>
<td></td>
<td>not yet received</td>
</tr>
<tr>
<td>Other regional bodies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GSO</td>
<td>6 May 2007</td>
<td>2 January 2012</td>
<td>Add.3/Rev.1</td>
</tr>
<tr>
<td>Commodity-specific organizations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>APCC</td>
<td>25 October 1999</td>
<td>20 April 2012</td>
<td>Add.1/Rev.1</td>
</tr>
<tr>
<td>ICCO</td>
<td>14 July 2011</td>
<td>20 April 2012</td>
<td>Add.13</td>
</tr>
<tr>
<td>OIV</td>
<td>1 March 1999</td>
<td>2 April 2012</td>
<td>Add.15</td>
</tr>
<tr>
<td>International &quot;scientific&quot; organizations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CABI</td>
<td>11 February 2011</td>
<td></td>
<td>Add.9</td>
</tr>
<tr>
<td>Other global bodies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CBD</td>
<td>13 June 2002</td>
<td>11 August 2010</td>
<td>Add.2/Rev.1</td>
</tr>
<tr>
<td>CITES</td>
<td>14 March 2011</td>
<td></td>
<td>Add.11</td>
</tr>
</tbody>
</table>

23. Consideration by categories could ensure that the Committee was consistent in its decisions. For example, the Committee may decide to grant observer status to all outstanding requests from the African regional secretariats and development bodies' category on the basis that four organizations from this category have already been granted with observer status in the past (CEN-SAD, ECOWAS, SADC, WAEMU). Also, the Committee may decide that at this point in time it does not see significant value in granting observer status to commodity-specific organizations. In this case, the Secretariat could inform the four organizations with commodity-specific mandates once, and further contact would be necessary only if the Committee were in future to decide to reconsider this matter.

**New Zealand comments on paragraph 23**

*New Zealand does not see significant value in granting observer status to commodity-specific organizations as this could set an undesirable precedence and open a flood gate of requests, including private standards setting bodies.*

*However this could be reconsidered in the future if circumstances warrant the granting of observer status to an international commodity-specific organisation.*
24. Alternatively, the Committee may wish to consider the outstanding requests on a one-by-one basis.

**New Zealand comments on paragraph 24**

*New Zealand supports considering the outstanding requests on a one-by-one basis so there is no risk of one non-compliant application taking the whole group out.*
ANNEX

Paragraph 28 of G/SPS/R/57, Summary Report of the Workshop on the Relationship between the SPS Committee and the International Standard-setting Organizations, 26 October 2009

V. RECOMMENDATIONS

28. The recommendations arising from the workshop included the following:

(1) Moving the reports on activities of the Three Sisters to earlier in the Committee's agenda;

(2) Increasing the number of joint capacity building activities which could provide an opportunity to discuss current work, for example, draft standards;

(3) Joint work by two or all Three Sisters on cross-cutting issues such as certification, inspection, approval procedures and/or risk analysis;

(4) Coordination meetings among the Three Sisters and with the WTO Secretariat;

(5) Consideration of how to ensure equivalence among results of standards on related products;

(6) Soliciting more information at the strategic planning phase of the Three Sisters work;

(7) The SPS Committee transmitting information relating to trade issues linked to non-use of standards, absence of standards, or inappropriate standards to the relevant Sister organization;

(8) Requesting the Three Sisters to analyse the current specific trade concerns raised in the SPS Committee to see which of these could have been addressed by the use of the existing international standards;

(9) Better use by the SPS Committee of the information regarding the use of international standards which is available from the SPS notifications;

(10) Identifying ways to improve coordination at a national level of the relevant representatives of the Three Sisters and SPS representatives; and

(11) The establishment of a "help desk" to answer enquiries and provide information in each of the Three Sisters and the WTO Secretariat.