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Alimentación y la Agricultura

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# COMMISSION ON PHYTOSANITARY MEASURES

**Tenth Session**

**Rome, 16-20 March 2015**

**Reports from selected international organizations:  
Report of activities of the SPS Committee and other relevant WTO activities  
in 2014**

**Agenda item 14.3**

**Prepared by WTO-SPS Secretariat<sup>1</sup>**

<sup>1</sup> This document is available in English, Spanish and French only

## **REPORT OF ACTIVITIES OF THE SPS COMMITTEE AND OTHER RELEVANT WTO ACTIVITIES IN 2014<sup>1</sup>**

This report to the Tenth Session of the Commission on Phytosanitary Measures (CPM-10) provides a summary of the activities and decisions of the WTO Committee on Sanitary and Phytosanitary Measures (the "SPS Committee") during 2014. It identifies the work of relevance to the CPM and the International Plant Protection Convention (IPPC), including: specific trade concerns; transparency; equivalence; regionalization; monitoring the use of international standards; technical assistance; and private and commercial standards. The report also includes relevant information on dispute settlement in the WTO and on the new Trade Facilitation Agreement. A separate report is provided regarding the Standards and Trade Development Facility (STDF).

### **1 WORK OF THE SPS COMMITTEE**

1.1. The SPS Committee held three regular meetings in 2014: on 25-26 March, 9-10 July and 15-16 October.<sup>2</sup>

1.2. The Committee agreed to the following tentative calendar of regular meetings for 2015: 26-27 March, 15-16 July, and 14-15 October.

1.3. Ms Maria Albarece of the Philippines served as Chairperson at the March 2013 meeting. At the July 2014 meeting, Ms Lillian Bwalya of Zambia was appointed Chairperson for the 2014-2015 period.

#### **1.1 Specific Trade Concerns**

1.4. The SPS Committee devotes a large portion of each regular meeting to the consideration of specific trade concerns (STCs). Any WTO Member can raise specific concerns about the food safety, plant or animal health requirements imposed by another WTO Member. Issues raised in this context are often related to the notification of a new or changed measure, or based on the experience of exporters. Often other WTO Members will share the same concerns. At the SPS Committee meetings, WTO Members usually commit to exchange information and hold bilateral consultations to resolve the identified concern.

1.5. A summary of the STCs raised in meetings of the SPS Committee is compiled on an annual basis by the WTO Secretariat.<sup>3</sup> Altogether, 382 STCs were raised in the twenty years between 1995 and the end of 2014, of which 24% were related to plant health.

1.6. In 2014, 14 new specific trade concerns were raised for the first time in the SPS Committee, including the following five new phytosanitary issues:

- India's import requirements for blueberries and avocados (STC 371)

In July 2014, Chile expressed its concerns regarding India's import requirements for blueberries and avocados from Chile, which began in 2010. Although India had notified its measures to the WTO in 2012, these technical requirements were unjustified because they did not take into account Chile's fruit fly-free status, which had been previously recognized by India in 2005. In particular, India's request for the use of methyl bromide fumigation on avocados and blueberries would affect the quality of the final product. Chile requested that India take into consideration the relevant provisions of the SPS Agreement in finding a solution to this concern.

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

<sup>2</sup> The report of the March meeting is contained in G/SPS/R/74 plus corrigendum, that of the July meeting in G/SPS/R/75, and that of the October meeting in G/SPS/R/76.

<sup>3</sup> The latest version of this summary can be found in document G/SPS/GEN/204/Rev.14. This document is a public document available from <https://docs.wto.org/>. Specific trade concerns can also be searched through the SPS Information Management System: <http://spsims.wto.org>.

India responded that, having received Chile's request in 2010, it had conducted pest risk analyses and had subsequently notified its regulations to the WTO in 2012. Comments received from Chile on its notifications had been acknowledged, which were mainly related to several pests in avocados and blueberries. India's import requirements, including fumigation by methyl bromide, could be relaxed if Chile provided the necessary documentation and proof regarding its pest-free area status from *spodoptera eridania* and *s. frugiperda* in the area of production of blueberries intended for export to India. For avocados, India requested Chile to submit the necessary technical information on the non-host status of avocado for the pests under discussion, their distribution within Chile and the location of avocado production areas.

- Russian restrictions on imports of certain types of plant products (STC 372)

In July 2014, The European Union expressed its concern regarding Russia's restrictions on EU exports of potatoes and certain other plant products. Since 1 July 2013, a ban had been imposed on the exports of several plant products on the basis of a limited number of interceptions of harmful organisms. In 2014, after having conducted inspections in several EU member States, Russia had allowed the import of seed potatoes and some other plants from some member States. The European Union considered this a positive step, but voiced concern on the need for clarity in the import requirements for these commodities and consistency in their application to all EU exporters. A complete ban, however, was still in place on imports of EU ware potatoes. The European Union considered the ban to be of a discriminatory nature as similar measures were not imposed on ware potato imports from other trading partners, many of which did not have the same high phytosanitary status as the European Union and hence presented higher phytosanitary risks. The European Union urged Russia to clarify the manner in which phytosanitary import requirements were defined and enforced for similar products of different origins. The European Union further indicated its willingness to engage in technical discussions on any guarantees deemed necessary to resume its exports.

Russia clarified that its restrictions did not apply to potted plants grown in greenhouses or to pre-base planting materials. Quarantined organisms in plant products imported from EU member States had been detected on a regular basis, originating mostly from Italy, Netherlands, Poland and Spain. Following several efforts to assist the European Union in eliminating the identified non-compliances, Russia had introduced temporary restrictions on the imports of seed and ware potatoes and planting materials on 1 July 2013, which were subsequently notified to the WTO. Russia was concerned about the level of coordination between the European Union and national organizations responsible for plant protection and the manner in which inspections were undertaken, which were not in accordance with ISPMs. The existing situation, including the lack of EU compliance with Russia's phytosanitary standards, did not permit the lifting of the temporary measures. Russia acknowledged the complexity of the current situation, and voiced its willingness to consult with the European Union and work within the framework of the pre-shipment inspection scheme, used in previous years, in order to address and solve the current problem in an expeditious manner.

- US high cost of certification for mango exports (STC 373)

In July 2014, India raised its concerns on the high cost of certification for mango exports to the United States. Since April 2007, India had been granted access to export mangoes to the United States on the basis that its mangoes would first be irradiated, under the supervision of US inspectors, to mitigate the risk of fruit flies and stone weevil. India noted the high cost of certification that it had to bear, which involved funding the travel and accommodation of US inspectors at the irradiation facility and other US officials involved in the process at various other locations. These costs reflected 12% of the FOB costs per metric ton of mangoes exported to the United States. In October 2014, India reiterated its concern regarding the high cost of certification for mango exports to the United States. While a trust fund had been created, India had suggested pre-clearance by the National Plant Protection Authorities, which had not been agreed on. In previous meetings, the United States had offered irradiation upon arrival which, however, would result in an economically unfeasible situation. Taking into account the past seven years of Indian mango exports to the United States, India again requested mutual recognition of equivalence of mango certification and conformity assessment procedures in order to reduce costs and to facilitate trade, as had been done for organic certification.

The United States noted that India had been the first country to ship irradiated commodities to the United States and that the value of these exports had steadily grown, reaching US\$1.6 million dollars in 2013. Several efforts had been undertaken to reduce the costs of the pre-clearance programme, such as collaboration on budget and financial issues. The United States had also amended its regulations to facilitate the importation of Indian mangoes by allowing irradiation upon arrival in the United States. The United States requested India to submit a formal request for amendment of the US operational work plan. The United States was looking forward to receiving further proposals from India on how to lower the costs of mango clearance.

The Dominican Republic expressed its support for India's concern and requested further information from the United States on the costs of import procedures.

- EU ban on mangoes and certain vegetables from India (STC 374)

In July 2014, India noted that, as of 1 May 2014, the European Union had banned the import of mangoes and four other vegetables from India, on the grounds of the increasing number of interceptions of harmful pests and organisms in the consignments exported to the European Union. India had held discussions with the European Union to share information on the various control measures which it had taken to address this issue. The EU ban had been imposed prior to the consideration of the outcome of several alternative methods for treating mangoes, such as hot water treatments or irradiation. As a result, the entire mango crop destined for the EU market could not be exported. An EU technical team would visit India in September 2014 to inspect the various facilities and India welcomed an early solution to this concern. In October 2014, India reiterated its concern and requested that the European Union remove the restrictions at the earliest.

The European Union explained that its measures had been introduced on 24 April 2014, due to the growing number of interceptions at the EU border of consignments of plants and plant products with harmful organisms. Several meetings had been held with India to discuss problems related to its insufficient phytosanitary export checks and inadequate certification systems. In 2010 and 2013, the EU Food and Veterinary Office undertook two missions to India, which revealed significant shortcomings in the certification system of plants exported to the European Union. To date, there had been no improvement in this situation, and the number of consignments of plant products with harmful organisms intercepted at the EU border continued to grow. On this basis, the European Union had temporarily prohibited the import of five commodities until the end of 2015 to allow India to take corrective measures and upgrade its certification system. This temporary ban would be reviewed in light of: (i) the outcome of future audits, the first one planned for September 2014; (ii) the receipt of sufficient guarantees from the Indian authorities; and (iii) the decrease in the number of interceptions on plants and plant products for which imports from India are not prohibited. The European Union hoped that India would take the necessary measures to allow resumption of export of all plants and plant products to the European Union.

- Russia's restrictions on imports of fruits and vegetables from Poland (G/SPS/N/RUS/69) (STC 380)

In October 2014, The European Union raised its concern regarding Russia's temporary restrictions on imports of certain fruits and vegetables from Poland, taken for phytosanitary and other reasons. These restrictions had been introduced as of 1 August 2014, and notified as G/SPS/N/RUS/69. The European Union questioned the consistency of this trade restriction with international principles, and whether it was supported by a risk assessment. Given the low rate of Polish phytosanitary non-compliance compared to the total number of consignments exported to Russia, the measures taken by Russia were disproportionate and more trade restrictive than necessary for the pests *Frankliniella occidentalis* and *Grapholita molesta*. The Russian measures were not transparent, since the Russian Federal Service had not provided regular notifications of interceptions to Poland in accordance with the IPPC and ISPM 13. Russia had not replied to EU requests for information on scope and methods of pest monitoring. The European Union reminded Russia of the principle of non-discrimination, which required that measures applied on exporting countries should not be more stringent than measures applied to the same pests

within the importing country. Despite numerous invitations to establish an effective system of data exchange with Russia, many notifications were received with delay, thus hampering official investigations to enable appropriate corrective actions. The European Union was confident that the Polish phytosanitary certification system was effective and fully consistent with international standards, and underlined that the Polish National Plant Protection Organization had taken further measures to eliminate cases of non-compliance and was ready to demonstrate their effectiveness in a systems audit. Moreover, the European Union noted that in many cases the MRLs applied by Russia for nitrates and pesticides were far below those set by Codex Alimentarius. In some cases the findings of Russian laboratories could not be confirmed by Poland, which would be the subject of a meeting between Polish and Russian laboratory experts. The European Union requested Russia to immediately repeal its measures and to align them with international standards and its WTO obligations.

Russia enquired whether a National Plant Protection Organization existed at EU level, and whether Poland had delegated powers to the European Commission to discuss the ban. The Russian Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhoznadzor) had repeatedly notified both the European Commission's Directorate-General for Health and Consumers and the Polish State Plant Health and Seed Inspection Service about the non-compliance of Polish commodities with Russian phytosanitary requirements. Since 2008 the phytosanitary status of commodities imported from Poland was insufficient, which had led to increasing numbers of interceptions every year, suggesting that Polish pest control might not be sufficient. Moreover, there had been several violations of international and Russian phytosanitary requirements of high risk commodities from Poland in 2013. To avoid such situations, two meetings with Poland had been held in 2013 and 2014, at which Poland had promised to undertake actions to prevent phytosanitary certification of contaminated products and to issue phytosanitary certificates in accordance with international requirements. The Russian Federation noted, however, that Poland had not taken these actions, although certain Polish products imported to Russia had posed a public health threat due to pesticide residues and nitrates levels which neither complied with Russian nor EU standards. Given these systematic violations and failure to prevent the problems, Russia imposed science- and risk-based temporary restrictions on imports of certain regulated Polish commodities. Russia reminded Members that it had harmonized its plant quarantine legislation with the principles of international standards at Russia's accession to the WTO. Accordingly, the Russian Federation requested the European Union to specify the concrete clause, article or section of the SPS Agreement, IPPC, ISPM or other documents violated by Russian measures.

1.7. Two issues relating to plant health that had been previously raised were discussed again during 2014:

- Indonesia's port closures (STC 330)

This trade concern had already been raised at each of the six SPS Committee meetings held in 2012 and 2013, by one or several of the following WTO Members: China, New Zealand, the European Union and the United States of America. Additionally, Argentina, Australia, Canada, Chile, Japan, the Republic of Korea, South Africa, Chinese Taipei, Thailand and Uruguay supported the concern. They all expressed concerns about Indonesia's closure of several entry ports for imports of fruit and vegetables, including the main port of Jakarta (Tanjung Priok), which entered into force in June 2012. The concern was that the port closures would threaten fresh fruit and vegetable exports to Indonesia. Indonesia was requested to provide scientific evidence for the measure and to notify its draft measures to the WTO, allowing sufficient time for formal comments from trading partners.

In July 2014, Chile again expressed its concern at the lack of access for its fruit exports through the Jakarta port. Chile had provided Indonesia with all the necessary documentation establishing its fruit fly-free status, and had requested that this be formally recognized. To date, Chile had not been recognized as free of fruit flies by Indonesia, although other countries had been granted that status. The Indonesian authorities had not yet carried out a technical visit to Chilean sites, despite the invitation. Chile noted that

Indonesia's measure was not in keeping with the objective of the SPS Agreement and further urged Indonesia to find a solution to its concern as soon as possible.

Korea shared Chile's concern, indicating that it had experienced difficulties in exporting its fresh agricultural produce to Indonesia since the port closure. Several bilateral discussions had been held and the requested information provided to the Indonesian government, including the results of a fruit flies survey. Korea urged Indonesia to resolve this issue as soon as possible. Japan further supported this concern and requested Indonesia to find a solution to this issue.

Indonesia recognized that the publication of its regulations<sup>4</sup> had raised concerns among some WTO Members. Indonesia recalled the closure of Jakarta port had been undertaken to protect consumers from the threat of new pests and diseases identified in fresh produce imported through the port. Indonesia was free from Medfly and precautionary actions were being taken in particular on products from countries which had Medfly. The Indonesian Quarantine Agency (IQA) had information that Medfly had been found in the Valparaiso region in Chile, in a grape plantation area in 2013. Owing to the Medfly's ability to fly long distances, IQA was concerned that products from Chile could adversely affect various fruit and vegetable plantations in Indonesia. Given its limited capacity to control the potential spread of Medfly, Indonesia could only approve products from countries with Medfly-free status or subject to treatments in compliance with the IPPC guidance.

Chile stressed that as of 2013, IPPC provided for the retention of the recognition of a country's pest-free status when an outbreak was quickly detected and controlled. Chile again invited Indonesia's technical experts to visit Chile to verify the swift management and eradication of these outbreaks. Furthermore, Chile had not received any warning prior to restrictions being imposed on its fruit exports. Chile reiterated its commitment to bilateral efforts to resolve this trade concern.

- EU's phytosanitary measures on citrus black spot (STC 356)

This issue was raised for the first time in the SPS Committee in June 2013, when South Africa raised concerns regarding the EU restrictive import measures on South African citrus exports infected with citrus black spot. This issue had been on-going since 1992.<sup>5</sup>

In March 2014, South Africa reiterated its concerns over the restrictive requirements regarding citrus fruit imports by the European Union. In December 2013, the European Union published an emergency measure on further restrictions to prevent the introduction of the citrus black spot pathogen into EU territory. The pest risk analysis of the European Food Safety Authority (EFSA) on citrus black spot was made available in February 2014. South Africa reviewed its risk management practices related to citrus black spot on an annual basis and significant improvements had been made, as documented to the European Union. In October 2014, South Africa indicated that the European Commission Standing Committee on Plant Health had decided on additional import measures for citrus fruit from South Africa, which had taken effect in July 2014. In South Africa's opinion, these significantly more stringent measures were unjustified restrictions on trade, and were disproportionate to any possible risk to the European Union. The measures implied additional costs and had severe negative influence on South Africa's citrus industry. South Africa had voluntarily suspended exports from certain areas for the rest of 2014, and had asked the secretariat of the International Plant Protection Convention (IPPC) to establish an expert committee in line with Article XIII of the IPPC to provide an independent science-based opinion. South Africa upheld its science-based opinion that EU phytosanitary import requirements in respect of citrus black spot for fresh consumption fruit were more stringent than technically justifiable.

The European Union confirmed that EFSA carried out a pest risk analysis on citrus black spot in February 2014. As part of the process, a public consultation with scientific experts was held and all the resulting comments were made public. EFSA's assessment confirmed that citrus black spot presented a high risk to the European Union as environmental

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<sup>4</sup> Ministry of Agriculture Regulation No 42/2012 and 43/2012.

<sup>5</sup> For discussions held in 2013, see WTO Report to CPM 9 circulated in document CPM 2014/INF/03.

conditions in some parts of the European Union were favourable for the introduction, establishment and spread of the disease via the import of citrus fruit. It was also underlined that while EU prevention measures were sufficient, they should be reinforced in some cases. Since the process of revising its general import requirements in respect of citrus black spot would take time, the European Union was considering interim measures for the import of citrus fruit from South Africa due to the number of non-compliant consignments during the previous season. The European Union acknowledged the efforts being made by South Africa to ensure a safer trade in citrus fruits.

In October 2014, the European Union stressed that the measures were in place to prevent the entry of citrus black spot, since there had been an increasing number of interceptions in 2014. The European Union was currently free from citrus black spot, and the disease would have severe socio-economic implications if imported. The European Food Safety Authority had established a scientific panel and was in the process of organizing a dialogue. The European Union acknowledged South Africa's efforts to remedy the situation and expressed its willingness to comply with its responsibilities under the IPPC dispute resolution process, but was also looking forward to a bilateral dialogue with officials from South Africa.

1.8. One phytosanitary issue was reported in 2014 as being resolved:

- Hong Kong, China's concerns regarding United States' interim rule affecting solid wood packaging material (STC 59)

1.9. WTO Members also used the opportunity of the SPS Committee meetings during 2014 to provide other information relating to plant protection measures, including:

- Japan indicated that it had lifted a ban on imports of fresh fruits from Argentina, Australia, Chile, Italy and Turkey, following agreements with these trading partners on certain conditions to prevent the introduction of fruit flies and codling moth into its territory. Thanks to data and information provided for pest risk analysis by its trading partners, this phytosanitary issue was resolved bilaterally.
- Burundi reported on the adoption of a decree relevant to the status of its Standardization and Quality Control Bureau and of a law on the national standardization, metrology, quality assurance and testing system (G/SPS/GEN/1308). Burundi also reported the adoption of a decree concerning the National Committee for the Coordination and Monitoring of Sanitary and Phytosanitary Measures, which was chaired on an annual rotation basis by the national focal points for CODEX, IPPC and OIE (G/SPS/GEN/1306/Rev.1). Burundi highlighted its need for technical assistance to develop the necessary capacities of these bodies in terms of transparency and international trade.
- Australia announced that its Department of Agriculture, Fisheries and Forestry (DAFF) had been renamed in September 2013, and was now known as the Department of Agriculture. Despite this name change, the functions and administrative nature of the department remained the same, and documents that referred to the department's previous name (DAFF) remained valid. The name change was being implemented gradually and as a result, references to DAFF would continue to be seen in some materials. All new or re-negotiated export documentation would be updated to reflect the department's new name. Australia assured the Committee that it was working with its trading partners to implement this name change in a smooth manner without disrupting trade.

## 1.2 Transparency

1.10. The SPS Information Management System (SPS IMS) allows easy access and management of all WTO SPS-related documentation.<sup>6</sup>

1.11. The legal obligation of WTO Members is to notify new or modified SPS measures when these deviate from the relevant international standards, including International Standards for Phytosanitary Measures (ISPMs). The recommendations of the SPS Committee, however, now encourage the notification of all new or modified measures even when these conform to

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<sup>6</sup> See <http://spsims.wto.org>.

international standards.<sup>7</sup> Although this recommendation does not change the legal obligations of WTO Members, it may enhance transparency regarding the application of IPPC's ISPMs.

1.12. A total of 1,168 notifications, that is 1,057 proposed new or revised SPS measures and 111 emergency ones, were submitted to the WTO in 2014. This is the highest number of SPS notifications ever circulated in any year since the SPS Agreement entered into force in 1995. Among these, 211 regular notifications and 21 emergency notifications identified plant protection as the objective of the measure. Of these, 158 of the regular and 20 of the emergency notifications identified an IPPC standard as relevant, with 100% and 90% respectively indicating conformity to an IPPC standard.

1.13. SPS National Notification Authorities can complete and submit SPS notifications online through the SPS Notification Submission System (SPS NSS). 65% of notifications submitted during 2014 were submitted online.

### **1.3 Equivalence**

1.14. The guidelines on the implementation of Article 4 of the SPS Agreement on equivalence<sup>8</sup> notes, inter alia, the work on recognition of equivalence undertaken in the Codex, the OIE and the IPPC, and encourages the further elaboration of specific guidance by these organizations. No contributions were made by any of the standard-setting organizations in 2014 under this agenda item.

### **1.4 Regionalization**

1.15. Article 6 of the SPS Agreement requires that measures take into account pest- or disease-free areas or areas of low pest or disease prevalence. This concept is frequently referred to as "regionalization". Guidelines on regionalization<sup>9</sup> adopted by the SPS Committee identify the type of information normally needed for the recognition of pest- or disease-free areas or areas of low pest or disease prevalence, as well as typical administrative steps in the recognition process. The Committee agreed to monitor the implementation of Article 6, on the basis of information provided by WTO Members.

1.16. The WTO Secretariat prepared a report on the implementation of Article 6, covering the period from June 2013 until 31 March 2014, based on information provided by WTO Members through notification and at SPS Committee meetings.<sup>10</sup> The report summarized (i) requests for recognition of pest- or disease-free areas or areas of low pest or disease prevalence; (ii) determinations on recognition of regionalization; and (iii) Members' experiences in the implementation of Article 6 and the provision of relevant background information by Members on their decisions to other interested Members.

### **1.5 Monitoring the Use of International Standards**

1.17. The procedure adopted by the SPS Committee to monitor the use of international standards invites WTO Members to identify specific trade problems they have experienced due to the use or non-use of relevant international standards, guidelines or recommendations.<sup>11</sup> These problems, once considered by the SPS Committee, are drawn to the attention of the relevant standard-setting organization.

Annual reports on the monitoring procedure summarize the standards-related issues that the Committee has considered and the responses received from the relevant standard-setting organizations. The Sixteenth Annual Report was circulated to Members on 12 June 2014.<sup>12</sup> Since no new issues were set forth by Members in the past year, it focused on the regular information reported by the IPPC, under previously raised issues, on the

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<sup>7</sup> G/SPS/7/Rev.3.

<sup>8</sup> G/SPS/19/Rev.2.

<sup>9</sup> G/SPS/48.

<sup>10</sup> G/SPS/GEN/1333.

<sup>11</sup> G/SPS/11/Rev.1.

<sup>12</sup> G/SPS/GEN/1332.

Implementation Review and Support System (IRSS) activities that were of relevance to the implementation of the ISPMs. The report also highlighted Argentina's and Chile's reiterated suggestions for the revision of the monitoring procedure (G/SPS/W/268 of July 2012). Chile reaffirmed the need to address the problems of developing countries that find it difficult to attend the Three Sisters' meetings and therefore lack information on the extent to which international standards are being applied. Argentina suggested including this procedure in a new catalogue of SPS-related tools proposed by Canada and Kenya.

## 1.6 Technical Assistance

1.18. At each of its meetings, the SPS Committee has solicited information from WTO Members regarding their technical assistance needs and activities. The SPS Committee has been kept informed of the training activities and workshops provided by the IPPC and relevant technical assistance activities of the FAO.

1.19. The WTO organized a workshop on risk analysis in Geneva on 13 and 14 October 2014. This was the second workshop being held on risk analysis since 2000, and formed part of the activities under the Fourth Review of the SPS Agreement. The workshop focused on Members' experiences in various areas of the risk analysis process, such as undertaking risk assessments, making risk management decisions and conveying risk communication messages. Focus was also placed on leveraging resources for risk assessments. Presentations were made by Members from developed and developing countries, as well as by several organizations such as Codex, IPPC, OIE, IICA and the International Livestock Research Institute (ILRI). The IPPC presented key IPPC standards related to PRA as well as capacity building and training materials available on this topic. In general, there were rich discussions throughout the workshop. A summary of the workshop as well as presentations and relevant documents are available through [http://www.wto.org/english/tratop\\_e/sps\\_e/wkshop\\_oct14\\_e/wkshop\\_oct14\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/wkshop_oct14_e/wkshop_oct14_e.htm).

1.20. At the March 2015 SPS Committee meeting, the WTO Secretariat will present its report entitled "SPS Technical Assistance and Training Activities", containing detailed information on all SPS-specific technical assistance activities undertaken by the WTO Secretariat from 1994 to the end of 2014.<sup>13</sup>

1.21. Document G/SPS/GEN/997/Rev.5, which will be circulated before the March 2015 meeting of the SPS Committee, will provide information on all WTO technical assistance activities in the SPS area planned for 2015, including the Geneva-based advanced course which provides in-depth and hands-on training to government officials. Three regional workshops on the SPS Agreement are scheduled for 2015. National seminars are provided upon request by WTO Members and acceding governments. Further information on SPS activities is available through <http://www.wto.org/sps/ta>.

## 1.7 Review of the Operation and Implementation of the SPS Agreement

1.22. The SPS Committee is mandated to review the operation and implementation of the SPS Agreement every four years. As agreed in its Second Review<sup>14</sup>, the Committee developed a procedure to facilitate the use of ad hoc consultations and negotiations to resolve trade problems, which was adopted in July 2014.<sup>15</sup> The procedure lays out how two or more WTO Members can use the good offices of the SPS chairperson or another facilitator to help find a solution to their concerns.

1.23. In 2014, the Committee undertook the Fourth Review of the Operation and Implementation of the Agreement.<sup>16</sup> Several WTO Members submitted issues for consideration as part of this Review.<sup>17</sup> Two of these proposals were further discussed in 2014: (i) the joint submission by Canada and Kenya on a catalogue of instruments available

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<sup>13</sup> G/SPS/GEN/521/Rev.10.

<sup>14</sup> G/SPS/36.

<sup>15</sup> G/SPS/61.

<sup>16</sup> G/SPS/W/270 and Add.1.

<sup>17</sup> These issues are summarized in document G/SPS/GEN/1307.

to WTO Members to manage SPS issues<sup>18</sup>; and (ii) the joint submission by Chile, the European Union, Morocco and Norway on transparency.<sup>19</sup> A questionnaire on transparency was circulated in February 2015, to inform further Committee discussions on this subject, as well as a Transparency Workshop planned for October 2015.

1.24. The SPS Committee discussed a draft Review Report at the July 2014 meeting. The report was subsequently revised twice based on Members' comments and suggestions received after the July and October 2014 meetings. Members were invited to submit comments on the latest revision of the draft report in writing by the end of 2014, with a view to its adoption during the March 2015 regular meeting.

## **1.8 Private and Commercial Standards**

1.25. Since June 2005, the SPS Committee has discussed the issue of private and commercial standards, and several information sessions have been held in the margins of the SPS Committee meetings. WTO Members have raised a number of concerns regarding the trade, development and legal implications of private standards. In March 2011, the Committee adopted five actions to address some of the identified concerns.<sup>20</sup> These actions relate to defining the scope of the discussions on these private standards and promoting information exchange among various actors in this area, including the SPS Committee, the relevant international standard-setting organizations, WTO Members, entities involved in SPS-related private standards, and the WTO Secretariat.

1.26. Discussions in 2014 continued to focus mainly on the development of a working definition of "SPS-related private standards".<sup>21</sup> In light of the lack of consensus on the joint definition tabled by China and New Zealand, the Committee agreed to move the process forward by forming an electronic working group focussed on developing a working definition of an SPS-related private standard, with China and New Zealand as "co-stewards".

1.27. The co-stewards circulated two reports on the work of the e-WG<sup>22</sup> for discussion at the March and October 2014 meetings. As no consensus had been reached by the e-WG on a working definition, the co-stewards had put forward a compromise working definition on their own responsibility. E-WG members were expected to revert to the co-stewards, so that discussions on a working definition could successfully be concluded by the March 2015 meeting of the Committee.

1.28. Following a suggestion by Canada, the Secretariat circulated a note on existing definitions of "private standards" in other international organizations, revised to take into account additional definitions reported by Argentina and Canada at the July 2014 meeting.<sup>23</sup>

## **2 OTHER RELEVANT WTO ACTIVITIES**

### **2.1 Dispute Settlement**

#### ***The WTO Dispute Settlement Procedure***

2.1. Any WTO Member may invoke the formal dispute resolution procedures of the WTO if they consider that a measure imposed by another WTO Member violates any of the WTO Agreements, including the SPS Agreement. If formal consultations on the problem are unsuccessful, a WTO Member may request that a panel be established to consider the complaint.<sup>24</sup> A panel of three individuals considers written and oral arguments submitted by the parties to the dispute and issues a written report of its legal findings and recommendations. The parties to the dispute may appeal a panel's decision before the

<sup>18</sup> G/SPS/W/279/Rev.1.

<sup>19</sup> G/SPS/W/278.

<sup>20</sup> G/SPS/55.

<sup>21</sup> G/SPS/W/265/Rev.2.

<sup>22</sup> G/SPS/W/276 and G/SPS/W/281.

<sup>23</sup> G/SPS/GEN/1334 and Rev.1.

<sup>24</sup> A flow chart of the dispute resolution process can be consulted at [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/disp2\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/disp2_e.htm).

WTO's Appellate Body. The Appellate Body examines the legal findings of the panel and may uphold or reverse these. As with a panel report, the Appellate Body report is adopted automatically unless there is a consensus against adoption.

2.2. According to the SPS Agreement, when a dispute involves scientific or technical issues, the panel should seek advice from appropriate scientific and technical experts. Scientific experts have been consulted in all SPS-related disputes. The experts are usually selected from lists provided by the Codex, IPPC, and OIE standard-setting bodies referenced in the SPS Agreement. The parties to the dispute are consulted in the selection of experts and regarding the information solicited from the experts.

### **SPS Disputes**

2.3. As of February 2014, more than 485 complaints had formally been raised under the WTO's dispute settlement procedures. Of these, 42 alleged violations of the SPS Agreement, and the SPS Agreement was relevant also in two other disputes. Twenty-one SPS-related complaints, on 16 issues, have been referred to a panel.

2.4. Three panel reports have concerned plant pests and quarantine requirements: (i) the United States complaint about Japan's requirement for testing each variety of fruit for efficacy of treatment against codling moth (*Japan-Agricultural Products*)<sup>25</sup>; (ii) the United States' complaint about Japan's set of requirements on apples imported from the United States relating to fire blight (*Japan-Apples*)<sup>26</sup>; and (iii) New Zealand's complaint against Australia's restrictions on apples (*Australia-Apples*).<sup>27</sup>

2.5. The developments of these and other disputes can be followed at <http://www.wto.org/disputes>.

### **2.2 Trade Facilitation**

2.6. At the WTO's 9th Ministerial Conference in Bali, Indonesia in December 2013, Members concluded negotiations of the Trade Facilitation (TF) Agreement.<sup>28</sup> Trade facilitation, which in a nutshell could be described as simplification of trade procedures in order to move goods in cross-border trade more efficiently, has been a topic of discussion since the WTO's Singapore Ministerial Conference in December 1996. After several years of exploratory work, WTO Members launched negotiations on trade facilitation in July 2004.

2.7. In line with the decision adopted in Bali, Members undertook a legal review of the text and adopted on 27 November 2014 a Protocol of Amendment<sup>29</sup> to insert the new Agreement into Annex 1A of the WTO Agreement. The TF Agreement will enter into force after two-thirds of WTO Members have completed their domestic ratification process in accordance with Article X:3 of the WTO Agreement.<sup>30</sup>

2.8. The TF Agreement consists of three main sections: Section I, which sets out the substantive obligations on facilitating customs and other border procedures in 12 articles; Section II, which contains special and differential treatment provisions for developing and least-developed country Members; and Section III, which contains provisions that establish a permanent committee on trade facilitation at the WTO, require Members to have a national committee to facilitate domestic coordination and implementation of the provisions of the Agreement and sets out a few final provisions. These WTO Members have flexibilities in implementing the Agreement, and are to designate, which commitments they can implement

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<sup>25</sup> The report of the panel is contained in document WT/DS76/R. The Appellate Body report is contained in document WT/DS76/AB/R.

<sup>26</sup> The report of the panel is contained in document WT/DS245/R. The Appellate Body report is contained in document WT/DS245/AB/R.

<sup>27</sup> The report of the panel is contained in document WT/DS367/R. The Appellate Body report is contained in document WT/DS367/AB/R.

<sup>28</sup> WT/MIN(13)/36, WT/L/911.

<sup>29</sup> WT/L/940.

<sup>30</sup> WT/MIN(13)/36, WT/L/911, paragraph 2.

immediately, and which they can only implement with more time and/or technical assistance.<sup>31</sup>

2.9. In July 2014, the WTO announced the launch of the Trade Facilitation Agreement Facility, which will assist developing and least-developed countries in implementing the WTO's TF Agreement. The Facility became operational with the adoption of the Trade Facilitation Protocol.

2.10. The TF Agreement concerns all border agencies – not just customs authorities – and therefore raises interesting questions with regard to its relationship with the SPS Agreement given that many SPS controls are implemented at the border. Possible conflicts between the TF and SPS Agreements are addressed in paragraph 6 of the Final Provisions of the TF Agreement, according to which "nothing in this Agreement shall be construed as diminishing the rights and obligations of Members under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures". This language makes it clear that the TF Agreement will not diminish Members' existing right to take science-based measures to protect human, animal or plant life or health within their territories. However, implementation of the TF Agreement can contribute to facilitating trade in goods subject to SPS controls (there is often room for streamlining SPS measures and their application), for example, by making import requirements more accessible through internet publication, by reviewing and reducing formalities, and by allowing advance filing of import documents so that processing can begin before the goods arrive. It would also provide more fairness in border procedures, for example, by requiring authorities to inform the importer when goods are detained, allowing the possibility of a second test, and protecting importers interests in the application of an import alert system.

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<sup>31</sup> Developing and LDC Members are to designate all the substantive provisions in three categories: Category A, which they can implement upon entry into force of the Agreement; Category B, which they can implement only after a transitional period; and Category C, which they can implement only after a transitional period and capacity building.