CODEX ALIMENTARIUS COMMISSION

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Food and Agriculture Organization of the United Nations

World Health Organization

Viale delle Terme di Caracalla, 00153 Rome, Italy - Tel: (+39) 06 57051 - E-mail: codex@fao.org - www.codexalimentarius.org

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CODEX ALIMENTARIUS COMMISSION

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COMMUNICATION FROM THE WORLD TRADE ORGANIZATION (WTO)

ACTIVITIES OF THE WTO SPS COMMITTEE AND OTHER RELEVANT WTO ACTIVITIES IN 2017 AND THE FIRST QUARTER OF 2018

REPORT BY THE WTO SECRETARIAT[1]

This report to the 41st session of the Codex Alimentarius Commission has been prepared by the Secretariat of the World Trade Organization ("WTO Secretariat"). The report provides a summary of the activities and decisions of the WTO Committee on Sanitary and Phytosanitary Measures (the "SPS Committee") in 2017 and the first quarter of 2018, and identifies the work of relevance to Codex, including: specific trade concerns; transparency; equivalence; monitoring the use of international standards; technical assistance; and SPS-related private standards. The report also includes information on relevant activities of the WTO Committee on Technical Barriers to Trade, WTO dispute settlement cases addressing the SPS Agreement, as well as some information about the newly adopted Trade Facilitation Agreement. A separate report provides information regarding the Standards and Trade Development Facility (STDF).

1 WORK OF THE SPS COMMITTEE

The SPS Committee held three regular meetings in 2017: on 22-23 March, 13-14 July and 2-3 November.[2] The Committee held its first meeting of 2018 on 1-2 March.[3] The two remaining meetings for 2018 are scheduled to take place on 12 to 13 July and 31 October to 1 November.

Mr Felipe Hees of Brazil served as interim Chairperson at the March 2017 meeting. At the June-July 2017 meeting, Mr Marcial Espínola of Paraguay was appointed Chairperson for the 2017-2018 period. Ms Noncedo Vutula of South Africa was appointed Chairperson for the 2018-2019 period.

1.1 Specific Trade Concerns

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. Frequently, 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.

A summary of the STCs raised in meetings of the SPS Committee is compiled on an annual basis by the WTO Secretariat.[4] Altogether, 439 STCs were raised between 1995 and the first quarter of 2018, of which 32% were related to food safety.

In 2017 and the first quarter of 2018, 22 new specific trade concerns were raised for the first time in the SPS Committee, including the following 8 new food safety issues of relevance to Codex:

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[1] 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 and obligations under the WTO.

[2] The report of the March 2017 meeting is contained in G/SPS/R/86 plus corrigendum, that of the July 2017 meeting in G/SPS/R/87 plus corrigendum, and that of the November 2017 meeting in G/SPS/R/88 plus corrigendum.

[3] The report of the March 2018 meeting is contained in G/SPS/R/90 plus corrigendum.

[4] The latest version of this summary can be found in document G/SPS/GEN/204/Rev.18. 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.

- *United States MRLs for chlorpyrifos (STC 419)*

In March 2017, Israel expressed its concern regarding the United States proposed rule to withdraw its food pesticide residue tolerances for chlorpyrifos. Following the notification of the proposed text in November 2016 (G/SPS/N/USA/2912), Israel had submitted comments to the United States and discussed the issue bilaterally at various fora. Israel explained that chlorpyrifos was produced in Israel, used on some 20 major crops exported to the United States, and considered an efficient and cost-effective broad spectrum pesticide. It was less disruptive to beneficial insects than alternative pesticides and a good rotational option. Also, for several important pests, growers had limited or no viable alternatives to chlorpyrifos. Israel noted that the United States' decision was based on three studies conducted in residential areas using chlorpyrifos for indoor pest control, which could cause hand-to-mouth contact as well as dermal or inhalation exposure. According to Israel, the results of these studies did not suggest that the relevant Codex MRLs (insecticide ID 17) were unsafe for agricultural products. Israel believed that the United States' deviation from the existing international standard was not scientifically justified. The United States needed to develop individual risk assessments on the use of chlorpyrifos for each agricultural crop of concern, taking into account all available scientific evidence as well as the objective to minimize negative trade effects.

Ecuador echoed Israel's concern, underlining that chlorpyrifos was broadly used worldwide and in Ecuador since 1989 on a variety of crops, including bananas majorly exported to the United States. Ecuador called for the United States to scientifically justify its measure and highlight the risks to human health, considering that the measure seemed to be based on studies carried out on the agricultural use of chlorpyrifos. Ecuador also asked if the United States would undertake individual risk assessments for different agricultural products based on Codex standards. Finally, Ecuador expressed a special concern with the adoption date of 31 March 2017 and the strong effects that it would have on trade.

The United States confirmed that all comments received would be considered by the Environmental Protection Agency (EPA) in finalizing the proposed measure. While the United States appreciated that many comments called on EPA to base its residue levels on Codex standards, it recalled the right of Members, in line with the SPS Agreement, to carry out their own risk assessments. Further information on the scientific assessments used was available in G/SPS/N/USA/2912.

- *France's dimethoate-related restrictions on imports (STC 422)*

In July 2017, the Chairperson noted that this concern was first raised in June 2016 as part of the concern regarding the European Union's revised proposal for the categorization of compounds as endocrine disruptors. It was now being raised as a separate specific trade concern, and would thus be so reflected in the IMS.

The United States reiterated its concern over actions taken by France to ban the importation of fresh cherries from countries that had approved the use of the pesticide dimethoate on cherries. The United States noted that the ban had not been based on a risk assessment of the safety of residues and that the measure had been renewed despite being inconsistent with the November 2016 EFSA decision and the regulation approved in February 2017 by SCoPAFF on MRLs for dimethoate (and its metabolite omethoate). The United States recalled that the European Commission and a majority of member States deemed France's requests for a European emergency measure to be unjustified and highlighted that the measure had a significant impact on trade without achieving a significant public health benefit. The United States further added that the measure had only been notified after its implementation and after the US request. It had then been notified as an emergency measure, without a specified comment period. Finally, the United States questioned the scientific basis for applying the measure only to fresh cherries when other commodities could also contain dimethoate residues. The United States expressed its willingness to exchange scientific information with France on the safety of dimethoate and its metabolites, as well as to explore less trade-restrictive measures.

Argentina endorsed the statement of the United States, highlighting the measure's lack of scientific justification and that it was more trade-restrictive than necessary, noting alternative measures such as the use of MRLs and the monitoring of residues during import controls. Argentina urged France and other Members imposing pesticide-related restrictions, to act in accordance with the SPS Agreement.

Canada echoed the United States and remained concerned about the renewal of a temporary restriction as a national emergency measure. Canada recalled that in October 2016 and July 2017 it had asked France for evidence that the current MRL of 0.2 mg/kg was insufficient to protect human health and for alternative appropriate levels of MRL for dimethoate. Canada highlighted the lack of scientific evidence of the measures imposed by France and expressed its general concern regarding bans based on substance authorizations, regardless of residue levels. Canada urged France to conduct a risk assessment to justify the application of a more restrictive MRL than the one applied by the European Union.

The European Union recalled that on 28 April 2017, France had introduced a protective measure suspending the importation of fresh cherries for consumption from member States and non-EU countries that had approved the use of the pesticide dimethoate on cherry trees. France had justified the measure because of unacceptable toxicological risks posed by the consumption of certain dimethoate metabolites. The European Union clarified that France was particularly concerned by the identification of a possible acute risk by EFSA, leading to France's request to the European Commission for emergency measures to ban the use of dimethoate for cherry trees. In the absence of EU measures, France had introduced a national emergency measure. The European Union finally indicated that new studies had been submitted to EFSA for evaluation, expecting a conclusion in spring 2018.

The United States thanked the European Union and looked forward to further bilateral discussions. The United States added that plant metabolism studies and toxicological data on relevant dimethoate metabolites had been previously submitted to and reviewed by the United States Environmental Protection Agency (EPA), and that omethoate, the only metabolite that was found to be toxicologically relevant by the EPA for risk assessment purposes (as well as enforcement), had also been evaluated by EFSA, with separate protective MRLs voted and approved by EU member States in February 2017.

In November 2017, the United States reiterated its concern over actions taken by France to ban the importation of fresh cherries from the United States and other countries that had approved the use of the pesticide dimethoate on cherries. The United States expressed concern over the decision to restrict imports of commodities based on the authorization of a pesticide in the country of origin rather than based on a scientific assessment of risk, and regardless of whether or not residues of the pesticide were present in the imported commodities. The United States noted that publicly available evaluations from other regulatory authorities had determined that dimethoate metabolites were not toxicologically relevant, as did the draft Rapporteur Assessment Report of the European Food Safety Authority (EFSA). The United States informed it had received from France a response to its comments, but regretted that it referred to data gaps when the United States argued the data was available. Finally, the United States requested France not to renew its ban for a third consecutive year.

Canada echoed the US concern, requested information about the measures that would apply from 1 January 2018, and encouraged France to adopt measures in line with those of the European Commission, which were scientifically justified and not discriminatory against products from countries where dimethoate was authorised for use. Canada urged France to conduct a risk assessment to determine if the current MRL established by the European Union was insufficient before enacting more trade restrictive measures.

The European Union referred to the response provided in the July 2017 SPS Committee meeting. To the question on the rationale behind the application of the measure only to fresh cherries when other commodities could also contain dimethoate residues, the European Union stated that it was based on consumption patterns, which were higher for cherries than for other commodities which could contain dimethoate residues. The European Union finally indicated that new studies had been submitted for evaluation to EFSA, with a conclusion expected in spring of 2018.

In March 2018, the United States reiterated its concern regarding actions taken by France to ban the importation of fresh cherries from the United States and other countries that had approved the use of the pesticide dimethoate on cherries. The United States expressed concern over the decision to restrict imports of commodities based on the authorization of a pesticide in the country of origin rather than based on a scientific assessment of risk, and regardless of whether or not residues of the pesticide were present in the imported commodities. The United States indicated that it had provided data, in response to France's notification (G/SPS/N/FRA/13), showing that dimethoate had not been used in the State of California for over five years. Furthermore, the United States argued that in regions where dimethoate might be used, it had been applied as a post-harvest application, which did not result in residues on the fruit. The United States noted that it had received from France a response to its submitted comments, but regretted that its substantive concerns had not been addressed. The United States indicated that it had demonstrated that pesticide authorization status was not a reliable indicator of actual exposure to residues and on this basis, requested France to clarify whether less trade restrictive measures had been considered. The United States also highlighted that it had satisfied the data-gaps for dimethoate metabolites and further urged France to follow the MRLs established by the European Commission, upon completion of the EU re-evaluation of dimethoate. Finally, the United States requested France not to renew its ban for a third consecutive year.

Canada echoed the US concern, requested information about any new measure that would apply later in 2018, and encouraged France to adopt measures in line with those of the European Commission. Canada noted that France had lifted its ban on cherries from countries where dimethoate use was authorized, but remained concerned that France might implement another temporary measure banning cherries from countries that had registered dimethoate use. Canada urged France to conduct a risk assessment to determine if the current MRL established by the European Union was insufficient, before implementing more trade restrictive measures.

Turkey supported the concerns raised, indicating that although dimethoate use had been prohibited in Turkey, it still had been unable to export cherries to France. Turkey urged France to apply the least trade restrictive measures and indicated its willingness to continue bilateral discussions on the issue.

The European Union referred to its previous responses provided in the 2017 SPS Committee meetings and indicated that the measure, which had been introduced in April 2017, had expired at the end of 2017. In terms of the next steps, the European Union explained that EFSA would evaluate new studies, particularly in view of the open questions on metabolites, and that an EFSA conclusion was expected later in 2018. The European Union noted that it was too early to know whether new measures would be introduced by France in 2018. The European Union further indicated that any such measure would be notified to the Committee.

- *Gulf Cooperation Council (GCC) Guide for Control of Imported Foods (STC 424)*

In July 2017, the United States expressed concerns on the proposed Guide for Control on Imported Foods (Guide), developed by the Gulf Cooperation Council (notified as G/SPS/N/BHR/164, G/SPS/N/QAT/22/Add.3, G/SPS/N/OMN/44/Rev.1 and G/SPS/N/SAU/14/Add.2). The United States expressed appreciation to GCC members for the extensive bilateral engagement and to Kuwait and the Kingdom of Bahrain for their June notifications on their non-implementation of the Guide until further notice (G/SPS/N/KWT/4/Add.1 and G/SPS/N/BHR/164/Add.1, respectively). The United States urged all GCC members to follow that example to prevent any confusion as to the status of the proposed food safety requirements.

Brazil shared the concern of the United States and also welcomed Kuwait and Bahrain's notifications, as well as the continued engagement with the GCC.

Bahrain, on behalf of the GCC, thanked the United States and Brazil for their interest and engagement, and informed that the rest of the GCC members would be notifying their suspension of the implementation of the Guide.

- *The Russian Federation's import restrictions on wine (STC 426)*

In July 2017, Montenegro raised a concern over the Russian Federation's measures on imports of wine products. Montenegro stressed that there had been no prior record of non-compliance of its wine products with the Russian Federation's required standards. Montenegro indicated that the import restrictions had been introduced on 26 April without advance and/or official notification. The reason provided for said restriction, according to the official website of the Rospotrebnadzor (the Russian Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing) was related to an increased content of pesticides (Metalaxyl) and phthalate plasticizer particles. Montenegro regretted that despite bilateral meetings and the exchange of information, the restrictive measures continued. Finally, Montenegro requested a joint testing procedure of the confiscated wine, within a reasonable time frame, to clarify the disputed facts.

The Republic of Moldova supported Montenegro's concern and its proposed joint control, adding that a similar approach could also be of use in addressing its ongoing trade concerns with the Russian Federation.

The Russian Federation thanked Montenegro for their bilateral meeting, and clarified that its competent authority, Rospotrebnadzor, had detected an incompliance of the affected Montenegrin wine producer with its sanitary and epidemiological legislation and hygienic norms. The Russian Federation recalled that the Rospotrebnadzor had informed the company but that no information had been provided by it or the competent Montenegrin authorities, following which the temporary import restriction had been imposed. The Russian Federation remained open to bilateral discussions with the competent authorities of Montenegro.

In November 2017, Montenegro reiterated its concern on the Russian Federation's restrictive measures applied to imports of wine from Montenegro, and provided an update on the efforts and actions taken by Montenegro since the previous SPS Committee meeting. Montenegro recalled that the import restrictions had been introduced in 2016 without advance or official notification to the authorities in Montenegro and the companies involved. Montenegro reported that it had submitted two official letters to the Russian Federation authorities requesting additional information and clarification on the scientific evidence and nature of the imposed restriction, had offered bilateral consultations and indicated that joint control of the wine would offer the best course to resolve the issue. Montenegro pledged its full cooperation with the Russian Federation and its willingness to have the Russian Federation carry out a verification of its wine production compliance with the Russian Federation standards. Montenegro expressed its deep regret for the lack of response on the part of the Russian Federation to its correspondence and the lacking intention to engage in bilateral consultation or undertake corrective measures to lift the existing restriction. Montenegro urged the Russian Federation to lift the restriction and to find a mutually agreed solution including the review of the SPS conformity of Montenegrin wine to facilitate the full return of the exported confiscated wine.

Moldova referred to its statement made in the July 2017 SPS Committee meeting and reiterated its support to Montenegro's proposal of a joint control of the confiscated Montenegrin wine to ensure a better understanding of the Russian Federation food safety standards and procedures in order to take corrective actions. Moldova urged the Russian Federation to constructively engage in bilateral consultations to find a mutually acceptable solution in line with WTO rules.

The Russian Federation stated that the temporary import restriction was imposed due to the detection that Montenegrin wines failed to meet the Eurasian Economic Union's and the Russian Federation's requirements. The Russian Federation indicated that Montenegro's communications were currently under consideration, but that they did not provide information about the actions taken by Montenegro to identify cases of contamination of wines imported to the Russian Federation. The Russian Federation expected constructive cooperation with Montenegro in this area.

- *EU maximum residue levels for acrinathrin, metalaxyl and thiabendazole (STC 428)*

In November 2017, Peru raised a concern over the European Union's lowering of MRLs for three pesticides, acrinathrin, metalaxyl and thiabendazole, under Regulation (EU) 2017/1164, which would enter into force on 21 January 2018. Peru stressed that imports of fruits and vegetables into the European Union would be affected, and highlighted the impact this already had on its mango production, as 62% of its exports were destined to the European Union. Peru requested a scientific justification for the measure, which would lower the MRLs for thiabendazole from 5 to 0.01mg/kg, a level more restrictive than the relevant Codex standard of 5mg/kg. Peru explained that the pesticides were used to protect fruits against diseases caused by fungi, in particular anthracnosis, and guarantee their shelf life. Peru presented document G/SPS/GEN/1586, which contained information about the measure's impact on Peruvian exports. Peru finally argued that the measure might be inconsistent with Articles 2 and 5 of the SPS Agreement.

Bolivia, Brazil, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Nigeria, and the United States shared the concern raised by Peru. The United States indicated a particular interest because for sweet potato the thiabendazole MRL would be lowered from 15mg/kg to the default level of 0.01mg/kg, due to a lack of residue trial data on sweet potato. The data was being generated and would be submitted at the earliest possible date. The United States explained that no risk to consumers had been identified, and that thiabendazole was used as an emergency crop protection tool to manage black rot for which no viable alternative existed. Without an adequate MRL to support exports to the European Union, sweet potato growers would either lose market access or risk a black rot outbreak, which could be devastating to the industry and result in unnecessary food waste. The United States planned to submit an import tolerance application and requested an expedited review.

Colombia emphasized the effect the measure would have on its banana and melon exports. The Dominican Republic requested an explanation of the measure under Article 5.8 of the SPS Agreement because of the measure's impact on mango trade. Costa Rica urged the European Union to consider the Codex MRL for thiabendazole. Members underlined the importance of basing measures on risk assessment and scientific evidence and emphasized that Codex was the reference as the relevant international standard.

The European Union explained that the proposed MRLs were based on the European Food Safety Authority's (EFSA) identification of dietary intake concerns and data gaps in their assessment of MRLs for thiabendazole in mangoes. The European Union reported that comments received from Members in response to notification G/SPS/N/EU/174 had not presented specific new data for re-evaluation and invited Members to apply for import tolerances for affected products accompanied by substantial new data addressing EFSA's concerns. The European Union noted that some mango producing countries had replaced thiabendazole with alternative substances. Finally the European Union reminded Members that it had provided an information note in June 2016 on the on-going review of EU MRLs, which had been updated in June 2017. It was available on the European Commission webpage on pesticides, and had been circulated as document G/SPS/GEN/1494/Rev.1.

In March 2018, Peru reiterated its concern regarding the lowering of EU MRLs for acrinathrin, metalaxyl and thiabendazole under Regulation (EU) 2017/1164, which had entered into force on 21 January 2018. Peru emphasized the negative impact of this measure on its fruit and vegetable exports to the European Union. In particular, Peru highlighted its concerns with EFSA's categorization of mango, which had led to more restrictive EU MRLs being applied than the Codex standard of 5mg/kg. Peru requested that the European Union review this measure which it viewed as more trade restrictive than necessary, without scientific basis and inconsistent with Articles 2 and 5 of the SPS Agreement.

Brazil, Colombia, Costa Rica, the Dominican Republic, Guatemala and the United States shared the concern raised by Peru, underlining the importance of basing measures on scientific evidence and using Codex standards. The United States expressed its disappointment with the European Union's decision to lower the thiabendazole MRL on sweet potatoes to 0.01mg/kg, even though no risk to consumers had been identified and confirmatory residue trial data were under development for submission. The United States requested clarification on the European Union's process, including the time-frame, for considering comments submitted by Members. In particular, the United States highlighted the short timing between its submission of comments, in response to the EU notification, and the subsequent vote by EU member States on thiabendazole MRLs, a few days later. The United States further noted that sweet potato growers would face great difficulties in exporting to the European Union and in controlling black rot during the time that it would take the European Union to re-establish an import tolerance. The United States indicated that it planned to submit an import tolerance application and hoped that the EU would consider an expedited review.

The European Union recalled its previous intervention in the November 2017 SPS Committee, explaining that the proposed MRLs were based on EFSA's identification of dietary intake concerns and data gaps in their assessment of MRLs for thiabendazole in mangoes. The European Union reported that comments received from Members in response to notification G/SPS/N/EU/174 had not presented specific new data for re-evaluation and invited Members to apply for import tolerances for affected products accompanied by substantial new data addressing EFSA's concerns. The European Union also indicated that the Standing Committee had discussed the concerns of trading partners, including whether processing factors could be applied for mangoes; however, it concluded that there was insufficient data or justification for further action. The European Union noted that there were other available plant protection products which could replace thiabendazole, and that a list of these possible alternatives had been transmitted to some interested trading partners. This list could also be made available to other Members. Finally, the European Union reminded Members that it had provided an information note in 2016 on the ongoing review of EU MRLs, which had been updated in June 2017 (G/SPS/GEN/1494/Rev.1), and urged Members to make their concerns known as early as possible in the process.

- *EU maximum level of cadmium in foodstuffs (STC 430)*

In November 2017, Peru raised a concern over the maximum levels of cadmium in chocolates and other cocoa products proposed by the European Union Commission Regulation (EU) No. 488/2014, which would come into force in January 2019. Peru highlighted that it was the second largest exporter of cocoa after Ecuador, and emphasized the importance of cocoa and chocolate exports to its economy. Peru queried whether the measure was based on "as low as reasonably achievable" (ALARA) principles. The risk analysis for substances of this kind should be conducted using the margin of exposure (MOE) approach. Peru reported that the Codex Committee on Contaminants in Food was developing a Codex standard on maximum levels of cadmium in chocolate and other cocoa products, and was expected to publish it in 2019. Peru submitted further details in document G/SPS/GEN/1587.

Colombia, Costa Rica, Côte d'Ivoire, the Dominican Republic, Ghana, Guatemala, Madagascar, and Nigeria shared Peru's concerns and requested that the European Union consider delaying the implementation of this measure until Codex had developed relevant international standards, or to exclude chocolates from the scope of application of the measure. Colombia also requested assistance to mitigate the trade impact of this measure along with a longer transition period, taking into account the needs of developing country Members. Costa Rica added that intrinsic difficulties in controlling the level of cadmium in cocoa production be taken into account when setting these levels. The ECOWAS representative indicated that ECOWAS members also shared the concern.

The European Union highlighted its efforts to alleviate the difficulties of trading partners in complying with this measure, such as agreeing to a transitional period of five years in October 2012, which had deferred the application date to January 2019, and setting maximum limits for blended products instead of cocoa beans to facilitate trade. The European Union further elaborated that these limits were based on EFSA recommendations that exposure to cadmium should be reduced and that in the light of available science, excluding chocolate and cocoa products from this measure would not achieve the desired level of protection.

In March 2018, Peru reiterated its concern over the maximum levels of cadmium in chocolates and other cocoa products proposed by the European Union Commission Regulation (EU) No. 488/2014. Peru highlighted the social and economic importance of cocoa and chocolate exports to its economy, underscoring the potential negative impact of the regulation on its exports. Peru further observed that the regulation did not establish maximum levels for cadmium in cocoa beans, only in chocolate. Peru recalled the findings of the European Food Safety Authority (EFSA), which indicated that it was unlikely that there would be adverse effects in an individual exposed to dietary cadmium in the European Union. Peru also noted that JECFA considered foods to be a risk when it contributed 5% or more of the maximum tolerable daily intake of the contaminant. Based on the JECFA parameter, Peru argued there was no justification for including chocolate in the regulation, as it only contributed 4.3% to dietary cadmium exposure, and further concluded that the EU regulation was not in line with the SPS Agreement. Peru drew Members' attention to the ongoing development of a Codex standard for cadmium maximum levels and highlighted that this standard could serve as a reference point for trade. Finally, Peru urged the European Union to exclude chocolate and cocoa products from the scope of its regulation.

Brazil, Colombia, Costa Rica, the Dominican Republic, Guatemala, and Panama shared Peru's concern, and requested that the European Union exclude chocolate and cocoa products from its regulation pending the development of Codex standards on maximum levels of cadmium.

The European Union recalled its intervention in the November 2017 Committee meeting, highlighting that the measure was based on EFSA recommendations that exposure to cadmium should be reduced, and that in light of available science, excluding chocolate and cocoa products from this measure would not achieve the desired level of protection. The EFSA assessment had taken into consideration EU consumption patterns. In addition, the European Union was of the view that the exposure assessment undertaken by JECFA gave no basis for amending the EU maximum levels for cadmium. The European Union reminded Members of its efforts to alleviate the difficulties of trading partners in complying with this measure, such as agreeing to a transitional period of five years, which had deferred the application date to January 2019, and setting maximum limits for blended products instead of cocoa beans to facilitate trade. The European Union further noted its active participation in Codex discussions on establishing an international standard for cadmium maximum levels.

- *EU restrictions on poultry meat due to Salmonella detection (STC 432)*

In November 2017, Brazil raised concerns over the reinforced border testing controls in the European Union, which had resulted in increased reports of salmonella detections in poultry. Additionally, Brazil pointed out that distinct microbiological criteria for fresh meat products and poultry meat preparations were unjustified, as the two products were similar. Brazil argued there was incorrect risk management and communication, contrary to the principles of the SPS Agreement, and asked the European Union to provide scientific justification for these measures.

The European Union acknowledged the difference in microbiological criteria for Salmonella for the two product categories as pointed out by Brazil, indicating that the scientific considerations were based on the opinion of the Scientific Committee on Veterinary Measures relating to Public Health on Salmonella in Foodstuffs. The European Union stated that there was no justification to revise the criteria. The European Union added that all shipments from Brazil were subject to pre-export testing as a reaction to the meat fraud scandal, and on the basis of the results of an audit carried out in April 2017. However, despite the pre-export tests, the prevalence of Salmonella found in poultry meat consignments from Brazil at the EU border was close to 8% and this was a matter of concern. The European Union noted its willingness to continue bilateral discussions on this issue.

In March 2018, Brazil reiterated concerns over the reinforced border testing controls in the European Union, which had resulted in increased reports of salmonella detections in poultry. In addition, Brazil pointed out that distinct microbiological criteria for fresh meat products and poultry meat preparations were unjustified, as the two products were similar. Brazil explained that it exported a considerable volume of uncooked salted poultry meat and seasoned poultry meat to the European Union, which were both commercially defined as "poultry meat preparations". However, Brazil argued that the food safety specifications for salted poultry meat should be the same as those applied to fresh poultry meat, since their intrinsic characteristics relevant to microbial food safety were virtually identical. In addition, both products were uncooked, had similar muscle fibre structure and were not intended for immediate human consumption. Brazil queried the scientific justification for the adoption of different food safety criteria for these products. Brazil also indicated that over 95% of the notifications of positive results in Salmonella detection by the European Union's Rapid Alert System for Food and Feeds (RASFF) were related to Salmonella in salted poultry meat, with no public health significance. Brazil further highlighted that the Standing Committee on Plants, Animals, Food and Feed was scheduled to discuss the delisting of Brazilian establishments which were currently authorized to export products of animal origin. Brazil emphasized that such a decision could have a negative result on Brazil's exports to the European Union and would constitute an unjustified barrier to trade.

The European Union acknowledged the difference in microbiological criteria for Salmonella for the two product categories as pointed out by Brazil, indicating that the scientific considerations were based on the opinion of the Scientific Committee on Veterinary Measures relating to Public Health on Salmonellae in Foodstuffs. The European Union stated that there was no justification for revising the criteria, and that they applied to both domestic production and imports into the European Union. The European Union added that shipments from Brazil were subject to laboratory testing at 20% frequency at the EU borders in addition to the checks that were requested to be carried out by the Brazilian authorities on each consignment before export takes place. These controls were put in place last year following the meat fraud scandal and on the basis of the results of an audit carried out in May 2017. However, despite the pre-export tests, the prevalence of Salmonella found in poultry meat consignments from Brazil at the EU border was close to 7% and this was a matter of concern. The European Union informed the Committee that the European Commission had recently carried out an audit in Brazilian poultry meat establishments, and that the report was under preparation. The European Union also explained that the delisting of Brazilian establishments was a separate issue under consideration by EU authorities, as it related to recurrent Salmonella detection in specific establishments, despite requests for Brazil to take appropriate measures. In relation to the problems of risk management and communication raised by Brazil in the November 2017 SPS Committee meeting, the European Union underscored its transparent system, highlighting that information on detections in both intra-European and international trade could be found in RASFF. Finally, the European Union noted that its measures were consistent with the SPS Agreement, and further indicated its willingness to continue bilateral discussions on this issue.

- *Viet Nam's draft amendment to Circular 24 on MRLs for veterinary drugs (STC 435)*

In March 2018, the United States raised a concern regarding Viet Nam's draft amendment to Circular 24 (G/SPS/N/VNM/82) which, as currently drafted, would rescind MRLs for several veterinary drugs that were currently aligned with Codex MRLs. The United States observed that Viet Nam had not provided scientific justification for rescinding the Codex aligned MRLs. The United States indicated that it had welcomed the announcement by Viet Nam's Prime Minister, during his May 2017 visit to the United States, that Viet Nam would continue to follow Codex standards for the veterinary drug MRLs in question. However, there still remained uncertainty regarding the status of the proposed ban on certain veterinary drugs, since there was no official document indicating that the draft ban would not go into effect. The United States, while acknowledging appreciation for the extensive bilateral engagement with Viet Nam on the issue, indicated disappointment that the issue remained unresolved. The United States further urged Viet Nam to maintain MRLs for veterinary drugs in accordance with Codex standards and requested that Viet Nam notify an addendum to the WTO withdrawing G/SPS/N/VNM/82, in order to provide certainty for US exporters.

Canada shared the concerns of the United States regarding Viet Nam's draft amendment to Circular 24, which proposed zero tolerances for a number of veterinary drugs, including ractopamine, which already had a Codex MRL. Canada stated that Viet Nam's proposed zero tolerance approach would effectively ban imports of meat products containing any residue of these veterinary drugs, even if within the Codex established MRLs. Canada noted that it had submitted detailed comments on Viet Nam's notification (G/SPS/N/VNM/82), and requested the scientific justification for the zero tolerance approach. Despite several bilateral efforts to resolve the issue, Viet Nam had still not withdrawn its proposal nor made known its future intentions, which had resulted in uncertainty for Canadian meat exporters. Canada urged Viet Nam to withdraw its proposal, to inform the Committee of its withdrawal and to establish MRLs for ractopamine and other veterinary drugs, based on Codex MRLs.

New Zealand supported the concerns of the United States, in particular noting the lack of scientific justification for rescinding the Codex aligned MRLs.

Viet Nam welcomed Members' feedback and underscored its commitment to uphold transparency in the process. Viet Nam informed Members that its Ministry of Health was still in the process of reviewing the regulation and receiving comments from relevant authorities, with a view to finalize the draft regulation. Members would be notified once there was an update on the status of Circular 24. Viet Nam further stated that its regulation was based on the guidelines of international standard setting bodies and that there was no arbitrary or unjustifiable discrimination against Members or disguised restriction to international trade.

Eight other issues relating to food safety, that had been previously raised in the SPS Committee, were discussed again during 2017 and the first quarter of 2018. These included:

- Paraguay and the United States' concerns regarding China's proposed amendments to the implementation regulations on safety assessment of agricultural GMOs (STC 395);
- Japan's concerns regarding Chinese Taipei's import restrictions in response to the nuclear power plant accident (STC 387);

- Japan's concerns regarding China's import restrictions in response to the nuclear power plant accident (STC 354);
- Colombia, Ecuador and Peru's concerns regarding the application and modification of the EU Regulation on Novel Foods (STC 238);
- Argentina, China and the United States' concerns regarding the EU revised proposal for categorization of compounds as endocrine disruptors (STC 382);
- The European Union's concerns regarding the Russian Federation's import restrictions on processed fishery products from Estonia and Latvia (STC 390);
- The European Union's concerns regarding Russian Federation's import restrictions on certain animal products from Germany (STC 411);
- Indonesia's concerns regarding China's import ban on fresh mangosteen (STC 416).

1.2 Members' information related to food safety

WTO Members used the opportunity of the SPS Committee meetings during 2017 and the first quarter of 2018[5] to provide other information relating to food safety, including:

- Belize informed the Committee of the Food Safety Preventative Controls Alliance Qualifying Individuals Training held in Belize City, in collaboration with IICA and USDA, partially funded by OIRSA;
- Canada recalled the work undertaken since 2012 to modernize its food safety framework (G/SPS/GEN/1524) and provided an update on the Safe Food for Canadians Regulation (SFCR). More information was available on http://www.inspection.gc.ca/safefood;
- Canada provided information on a training session held in partnership with FAO and the United States, with the aim of increasing the pool of scientific experts available to conduct pesticide residue evaluations for JMPR;
- The European Union drew the Committee's attention to document G/SPS/GEN/1551, which provides an overview of the new Regulation (EU) No. 2017/625 on official controls and other activities performed to ensure the application of the Food and Feed Law. Further information was available on: http://ec.europa.eu/food/safety/official_controls/legislation_en;
- Japan provided information on the situation surrounding Japanese food after the Fukushima Daiichi nuclear power plant accident;
- Senegal provided information on the establishment of a National SPS Risk Assessment and Management System (DNER) involving several agencies and commodity conformity assessment bodies, with the aim of creating synergies between all stakeholders of the food chain;
- Senegal reported on their national SPS committee and the outcome of a study to monitor MRLs using Codex reference levels;
- Senegal also provided information on an antimicrobial monitoring plan for food products of animal origin to identify sources of contamination;
- The Russian Federation reported on the international conference on "Food Safety and Risk Analysis" held on 18-19 May 2017 in Sochi, jointly organized by the Russian Federation and the FAO. The conference covered risk assessment, risk management and risk communication, food safety, food contamination and capacity building; and
- Ukraine provided an update on its new law on state control measures over the content of food and feed safety, animal by-products, animal health and welfare.

1.3 Transparency

The SPS information management system (SPS-IMS) allows easy access and management of all WTO SPS-related documentation.[6]

[5] G/SPS/R/86 plus corrigendum, G/SPS/R/87 plus corrigendum, G/SPS/R/88 plus corrigendum and G/SPS/R/90 plus corrigendum.

[6] See http://spsims.wto.org.

The legal obligation of WTO Members is to notify new or modified SPS measures when these deviate from the relevant international standards, including Codex standards. The recommendations of the SPS Committee, however, now encourage the notification of all new or modified measures even when these conform to international standards.[7] Although this recommendation does not change the legal obligations of WTO Members, it may enhance transparency regarding the application of Codex standards.

A total of 1,406 notifications, that is 1,186 proposed new or revised SPS measures and 220 emergency ones, were submitted to the WTO in 2017 and the first quarter of 2018. Among these, 862 regular notifications and 92 emergency notifications identified food safety as the objective of the measure. Of these, 326 of the regular and six of the emergency notifications identified a Codex standard as relevant, either indicating the application of the Codex standard or a deviation from it.

The SPS information management system (SPS-IMS) allows easy access and management of all WTO SPS-related documentation.[8] Moreover, SPS National Notification Authorities can complete and submit SPS notifications online through the SPS Notification Submission System (SPS NSS). 68% of notifications submitted during 2017 and the first quarter of 2018 were submitted online.

1.3.1 ePing

Given the high volume and diversity of SPS/TBT notifications circulated, reaching more than 4,000 in 2017, it can be a challenge for interested stakeholders to track and react to evolving product requirements in a timely manner. In response to a request from WTO Members to help address this challenge, the WTO Secretariat joined forces with the United Nations Department of Economic and Social Affairs (UNDESA) and the International Trade Centre (ITC) to launch the SPS/TBT notification alert system ePing in November 2016. By registering on ePing, users can receive daily or weekly email alerts containing SPS/TBT notifications covering products/markets of interest to them. In addition, ePing's web-based platform can assist national SPS/TBT enquiry points/notification authorities in managing and reaching out to domestic stakeholders to discuss specific notifications or provide complementary information (such as translations). Furthermore, enquiry points can reach out directly to each other through the enquiry point discussion forum. At the same time, awareness of regulatory trends in other markets can assist regulators as they in turn develop measures to address similar policy objectives and the tool can also be used to keep abreast of a Member's own notifications. As of May 2018, ePing has around 3,900 users, close to half of them from the private sector. Those interested in receiving further information/capacity building or in providing feedback are invited to send an email to spstbtalerts@wto.org.

1.4 Equivalence

The guidelines on the implementation of Article 4 of the SPS Agreement on equivalence note, *inter alia*, the work on recognition of equivalence undertaken in the Codex, the OIE and the IPPC, and encourage the further elaboration of specific guidance by these organizations. No information was provided by the Codex regarding work on equivalence during the period.

1.5 Monitoring the use of international standards

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.[9] These problems, once considered by the SPS Committee, are drawn to the attention of the relevant standard-setting body.

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 Eighteenth Annual Report was circulated to Members on 8 June 2017.[10] The following issues were raised in 2017 and the first quarter of 2018:

- *The relation of the World Health Organization and the Food and Agriculture Organization to Codex Alimentarius*

[7] G/SPS/7/Rev.3.
[8] See http://spsims.wto.org.
[9] G/SPS/11/Rev.1.
[10] G/SPS/GEN/1550.

In the November 2017 Committee meeting, the United States recalled the SPS Committee procedure to monitor the process of international harmonization (G/SPS/11/Rev.1), highlighting that this procedure should help to identify, for the benefit of the relevant international organizations, where a standard or guideline was needed, or was not appropriate for its purpose and use. In this regard, the United States drew Members' attention to the recent discussions that had taken place at the Codex Alimentarius Commission in July 2017, regarding the relation of the WHO and FAO to Codex. The United States acknowledged the critical importance of the institutional support provided to Codex by the WHO and FAO, such as through the scientific advisory bodies, while also recognizing the unique role of Codex in the support of public health and trade, and the need for Codex to independently issue standards with support from its members.

The United States noted that Codex effectively carried out its mandate, by maintaining an inclusive, open and transparent standards development process and by relying on scientific and technical advice from a wide range of perspectives from the public and private sector, as well as international organizations. The United States further stated that while WHO and FAO routinely provided inputs to Codex for further consideration by its membership, Codex ultimately made its determinations based on science, and consistent with the views of its members. The United States urged WHO and FAO to jointly reinforce the independence of Codex, including its responsibility to make decisions that were both science-based and consistent with the views of its members. Due to the differences in mandate and procedures of the WHO and FAO, the United States noted that any ambiguity regarding the independence of Codex posed a concern, since any undue influence could adversely impact the appropriateness of Codex standards in ensuring fair practices in the trade of food.

The United States further underscored the need for Codex to remain a member-driven, science-based, transparent and inclusive organization in order to ensure the appropriateness of its standards for their purpose and use in protecting public health and ensuring fair trade. The United States urged WHO and FAO to provide sustainable funding to enable Codex standards to meet their health and trade objectives.

Canada recalled that Codex had been jointly established by the FAO and WHO with a specific mandate to develop food standards to protect the health of consumers and to ensure fair practices in trade of food products. Canada recognized the different mandates of each of the three organizations and indicated its support for their respective work, while highlighting the complementary and synergistic nature. Canada further underscored that any work undertaken by Codex should be within the purview of its mandate, while also recognizing the importance of taking into account the policies of FAO and WHO in its work, and the need for Members to strengthen their national coordination structures on FAO, WHO and Codex.

During the March 2018 Committee meeting, the United States recalled that at the November 2017 SPS Committee, it had outlined its concerns regarding the relationship between Codex and its parent bodies, FAO and WHO. The United States noted that while it supported a close working relationship between Codex and its parent bodies, it also sought to heighten recognition of the difference in mandates and procedures of the three organizations. The United States underscored the dual mandate of Codex to protect the health of consumers and ensure fair practices in the food trade. Critical to this dual mandate was its inclusive, open and transparent standards development process, which relied on scientific and technical advice from public and private sector, as well as international organizations. The United States further highlighted that the SPS Agreement recognized the international standards and guidelines developed by Codex, setting Codex standards apart from those developed by FAO or WHO. The United States encouraged Members to support Codex's independent, member-driven development of science-based standards.

Canada recalled that Codex had been jointly established by the FAO and WHO, while highlighting the specific mandate of Codex and underscoring the different mandates of each of the three organizations. Canada noted that the 40th Session of the Codex Alimentarius Commission (2017) had concluded that WHO and FAO policies were to be taken into account, as appropriate, in accordance with the need to respect the unique and specific mandate of Codex. Canada recognized the importance of expert scientific advice to Codex work and further indicated that the FAO/WHO Scientific Advice Programme had been operating with an annual deficit. Several needs had been identified, such as finding a sustainable funding solution; inviting the WHO to increase its contribution to Codex; and supporting the establishment of a blind trust fund designed to enhance contribution to scientific advice activities. Canada also called upon WHO and FAO, as the parent bodies, to provide predictable and appropriate funding for Codex scientific advice activities.

Argentina appreciated the work undertaken by WHO and FAO in various areas, including keeping Members aware of new and emerging issues. Argentina referred to the Codex Procedural Manual which was agreed upon by Members and the two parent bodies, noting the inherent member-driven process by which decisions were to be taken in Codex, while bearing in mind the opinion of the two parent bodies, other international organizations and interested stakeholders. Argentina emphasized the different mandates and procedures that guide Codex, FAO and WHO, and further underscored the need for Codex to concentrate on its dual mandate of protecting consumer health and promoting fair business practices in food trade, unless Members decided otherwise. Argentina further highlighted that, as the international standard-setting body for food safety recognized under the SPS Agreement, Codex's mandate and procedures should be respected and not undermined.

Chile reiterated the need to secure funding for the risk assessment activities being undertaken, and underscored the importance of Codex and its role in developing international standards in the food safety area.

The European Union indicated its commitment to provide financial support to the Codex risk assessment bodies (i.e. JMPR, JECFA and JEMRA), through a grant agreement of 402,000 euros during the period 2018-2020. The European Union further urged Members and the two parent bodies to consider more sustainable financing mechanisms to fund Codex scientific work, such as funding from the WHO's core budget.

- *Use of the Codex international standard on glyphosate*

During the March 2017 Committee meeting, Argentina reiterated its concern that some Members were considering the possibility of rescinding the use of glyphosate and thereby no longer apply the Codex MRL. In particular, Argentina noted that although the European Commission had approved the extension of the authorization for glyphosate use until the end of 2017, there still remained concerns regarding the immediate impact on trade of agricultural products if the authorization was not further renewed. Argentina highlighted the JMPR report from May 2016 that had concluded that glyphosate was "unlikely to be genotoxic" and "unlikely to pose a carcinogenic risk to humans from exposure through diet". A recent European Chemical Agency (ECHA) publication, dated 15 March 2017, had also concluded that the available scientific evidence did not meet the criteria to classify glyphosate as being carcinogenic, mutagenic or toxic for reproduction. Argentina noted that the ECHA conclusion was in accordance with previous statements from the European Food Safety Authority (EFSA). Argentina recalled the obligations of Article 3 of the SPS Agreement, highlighting that Members had the obligation to base their food safety measures on Codex standards or on scientific evidence. No scientific evidence had been provided by the European Union to justify deviation from the Codex standard. Argentina urged the European Commission to take into account the Codex standard, the EFSA opinion and the ECHA risk assessment in its next decision on the renewal of the authorization of glyphosate use.

The United States reiterated its concerns over the fact that some Members had already taken action, or were considering taking action, to no longer apply the Codex MRL for glyphosate. The United States understood that the measures being considered did not appear to be based on international standards or on a risk of exposure. Multiple robust risk assessments had been undertaken by international and national authorities (e.g. JMPR, EFSA, ECHA) on glyphosate, none of which had found convincing evidence regarding a carcinogenic risk to humans. In addition, glyphosate was subject to a periodic registration review by the US Environmental Protection Agency (EPA), in order to ensure that pesticides containing glyphosate continued to meet the statutory safety standard for registration. The United States further informed that in 2016 the EPA had published a review of all available data on the potential carcinogenicity of glyphosate, where it had proposed to classify glyphosate as "not likely to be carcinogenic to humans at doses relevant for human health risk assessment". This review had included, but also extended beyond, the studies reviewed by WHO and the International Agency for Research and Cancer (IARC) which had assigned a classification of "probable human carcinogen" to glyphosate. The EPA review had been evaluated by an independent scientific advisory panel, which had released its report in March 2017. The EPA was now currently reviewing the panel's report, and other comments, before making a final determination on the potential carcinogenicity of glyphosate. Draft human health and ecological risk assessments on glyphosate were also scheduled to be published later in 2017, for public comments. The United States underscored the importance of distinguishing between the assessments conducted by JMPR, EFSA, ECHA and the pending EPA risk assessment, from the report of IARC, which was based on an assessment of hazard only and not on risk. The United States further encouraged all Members to follow Codex glyphosate MRLs or to base SPS measures on science-driven risk assessments that incorporate realistic exposure scenarios.

Australia, Brazil, Canada, Chile and New Zealand echoed the concerns of Argentina and stressed the importance of following the Codex standard. The findings of the JMPR report of May 2016 were also noted and Members encouraged to take into account the guidance provided by JMPR and CCPR when developing, applying, re-evaluating or reauthorizing measures.

The WHO, on behalf of WHO and JMPR, confirmed the JMPR conclusions on glyphosate as outlined in the JMPR report of May 2016, and indicated that the process to review glyphosate was ongoing. The WHO further explained that JMPR would report to the CCPR in April 2017, and would not request a change in the MRLs for glyphosate.

During the July 2017 Committee meeting, Argentina reiterated its concern regarding the debates in the European Union on the renewal of authorising the use of glyphosate, a commonly used pesticide. Argentina recalled the extension of the authorization until the end of 2017, urging for its renewal. Argentina expressed concern by the trade impact that a non-renewal of the authorization would have. Argentina emphasized that glyphosate had already been assessed by the Joint FAO/WHO Meeting on Pesticide Residues (JMPR), which was the basis for the MRLs adopted by Codex. Argentina therefore urged the European Union to comply with its multilateral obligations and base its decision on Codex rules and on the scientific reports published by the European authorities EFSA and ECHA.

Australia, Brazil, Canada, the Dominican Republic and the United States associated themselves with Argentina and stressed the importance of scientific assessment and consistency with international standards, recalling the JMPR re-evaluation of glyphosate and other risk assessments; as well as the negative trade impact that a non-renewal of the authorization of glyphosate would have on producers.

The European Union clarified that the Risk Assessment Committee of ECHA had concluded that the "available scientific evidence did not meet the criteria to classify glyphosate as a carcinogen, as a mutagen or as toxic for reproduction". The European Union recalled that on 16 May the European Commission had restarted discussions with Member states about the possible renewal of approval for ten years. The deadline to decide on the renewal was 15 December 2017, six months after the reception by the Commission of ECHA's formal opinion. The European Union restated its commitment to adopt a science-based decision that ensured the protection of human health and the environment.

During the November 2017 Committee meeting, Argentina reiterated its concern that some Members were considering the possibility of rescinding the use of glyphosate and thereby no longer apply the Codex MRL. In particular, Argentina noted the ongoing debate within the European Union on the renewal of the authorization of glyphosate use and the increasing uncertainty regarding the adoption of a decision to renew the licence for its use in the European Union, which would expire on 15 December 2017. Argentina referred to the scientific opinions from EFSA and the European Chemicals Agency (ECHA), as well as risk analyses undertaken by several agencies from various countries, which all concluded that glyphosate could not be classified as being carcinogenic, mutagenic or toxic for reproduction. Argentina also noted that glyphosate had been the subject of various risk assessments carried out by JMPR, which provided the basis for establishing maximum residue limits, for subsequent adoption by the Codex Alimentarius Commission. Argentina acknowledged the concerns of various EU member States and other EU stakeholders, and echoed the need to ensure consumer and environmental protection, but further emphasized the fundamental importance of basing sanitary measures on a scientific risk assessment. In this regard, Argentina noted that glyphosate had been proven to be safe and effective when used correctly by farmers. Argentina further indicated its concern regarding the position of some EU member States to prohibit the use of glyphosate or to renew it for very short periods, even when EU legislation indicated that approval for substances whose uses had been assessed to be safe, could be renewed up to a fifteen year period.

Argentina stated that a potential decision against the renewal of the approval of glyphosate, despite the conclusions of available scientific assessments which backed the renewal of glyphosate, would lead to serious concerns about the science-based decision-making procedures in the European Union. In addition, Argentina highlighted the possible impact of the non-renewal of the authorization of glyphosate on the advancement of safe agricultural techniques, as well as the effects on international trade and prices of grains, oilseeds and by-products. While Argentina acknowledged the need to control the indiscriminate use of toxic substances, it emphasized the importance of ensuring that SPS measures were based on scientific evidence and not more trade restrictive than necessary. As such, Argentina urged the European Union to comply with its obligations under the SPS Agreement to base decisions on scientific evidence, as set out in Article 3, and to swiftly proceed with the renewal of the authorization of glyphosate, in accordance with EU legislation. Finally, Argentina drew the Committee's attention to the European Court of Justice ruling in Case C111/16, which stated that neither the European Commission nor EU member States could adopt emergency measures, such as the prohibition of genetically modified organisms, if it were not proven that such products may credibly present a grave risk for human, animal health or the environment.

The United States reiterated its concerns over the fact that some Members had already taken action, or were considering taking action, to withdraw existing glyphosate MRLs or to no longer apply the Codex MRL for glyphosate. The United States observed that some of these measures appeared to lack scientific justification, while noting that glyphosate had been one of the most rigorously studied and evaluated crop protection tools. The United States recalled JMPR's conclusion that neither short-term nor long-term dietary exposure to glyphosate presented a risk to consumers or a public health concern. On this basis, all existing Codex MRLs had been reaffirmed. The United States expressed concern that actions to restrict the use of glyphosate and withdraw glyphosate MRLs would significantly harm international trade without any benefit to public health, and that such actions had the potential to undermine Codex and its standards. In particular, the United States noted the ongoing delays in the European Union to renew the current authorization for glyphosate, and recalled that the European Union had failed to reach a renewal decision last year, despite the conclusions by both EFSA and JMPR that glyphosate was unlikely to be a human carcinogen. The United States explained that a short 18-month extension had been provided, in lieu of a 15-year renewal decision, in order to allow a third independent opinion by ECHA on glyphosate. In March 2017, the ECHA had corroborated the findings of EFSA and JMPR. The United States recalled the European Union's subsequent statement in the March SPS Committee meeting, where it had restated its commitment to adopt a science-based decision on glyphosate renewal. However, the United States expressed concern that EU member States appeared to be ignoring the findings of international and European scientific authorities, as they had failed to reach a qualified majority at the October 2017 Standing Committee on Plants, Animals, Food and Feed (PAFF).

With the pending December 2017 expiration of the EU authorization, the United States reiterated its concern that EU member States had yet to reach a decision on the renewal of glyphosate and that non-renewal could lead to the lowering of glyphosate MRLs to default levels in the European Union. The United States further noted the potential impact on crop production techniques, world trade of grains and oilseeds, and the estimated net global losses to the sector, nearly US$7 billion dollars according to a third party impact assessment, if authorization for glyphosate use was withdrawn or MRLs lowered. The United States stated that separating production throughout the entire supply chain for exports to the European Union was unwarranted from a risk stand point, and also not feasible. In concluding, the United States observed that the European Union's decision had the potential to undermine regulatory authorities around the world (EFSA, ECHA, JMPR), and could embolden those who rejected the validity of independent and objective scientific evaluations as the basis of regulatory approvals. The United States urged the European Union to avoid further delay and to base its glyphosate renewal decision on the scientific findings published by European and international authorities.

The Chairperson drew the Committee's attention to the report submitted by Codex in G/SPS/GEN/1577/Add.1, which provided some information on glyphosate.

The European Union thanked the United States and Argentina for the detailed information provided to the Committee, and confirmed that the current glyphosate approval was valid until the end of 2017. The European Union explained that there were ongoing discussions with EU member States on the renewal of the approval, on the basis of the positive opinions by EFSA and ECHA, and that all relevant information was available on the European Union's glyphosate webpage.

Australia, Brazil, Canada, Colombia, Peru, New Zealand and Uruguay echoed the concerns of Argentina and the United States, and stressed the importance of scientific, risk-based decision-making, as well as the importance of following the Codex standard. The potential impact of the EU decision on world agricultural production and exports to the European Union, as well as the potential pest and disease issues that might arise, were also noted. Members encouraged the European Union to take into account the conclusions of the various scientific risk assessments, including by European authorities, in its decision-making process. Australia also raised several queries in relation to the likely timeline for the EU decision, the expected period of re-approval, how this information would be communicated to trading partners, and whether a comment period would be provided if glyphosate approval was restricted or not renewed. Australia further requested the views of the EU Commission on its import tolerance setting process if glyphosate was not approved for EU use, bearing in mind the conclusions of the European Union's risk assessment of glyphosate and the cut-off criteria indicated in EU Regulation No. 1107/2009.

- *Codex Guidelines and Principles for Official Certification Requirements*

In the July 2017 Committee meeting, the United States raised concerns regarding the impact on trade caused by official import and export certification requirements that were not based on Codex guidance developed over more than two decades, and also not based on scientific justification and risk. The United States regretted the proliferation of new proposed requirements for official certificates – particularly for low-risk products. These requirements increased the burden on exporters and regulatory agencies in the exporting country, and importers and officials in the importing country, with no identifiable public health or food safety benefit. The United States called upon Members to reflect on this concern, to consult with their exporters and consider whether and how the Committee might support the work of Codex by advancing the understanding and use of the relevant Codex principles and guidelines in this area.

Canada shared the concerns of the United States and encouraged Members to follow the Codex Guidelines for Design, Production, Issuance and Use of Generic Official Certificates (CAC/GL/38-2001) when establishing their official certification requirements. According to these guidelines, official certificates should be required only where attestation and essential information were necessary to ensure food safety and fair practices in food trade; and that importing countries should consider alternative means to achieve this objective.

During the March 2018 Committee meeting, the United States reiterated its concerns regarding the potential negative impact on trade arising from unnecessary official export certification requirements that were not based on Codex guidance developed over more than two decades, and also not based on scientific justification and risk. The United States regretted the proliferation of new proposed requirements for official certificates – particularly for low-risk products. These requirements increased the burden on exporters, importers, consumers and governments, with often no identifiable public health or food safety benefit. The United States noted the ongoing work in APEC, and further called upon Members to reflect on these issues, to consult with their exporters and consider whether and how the Committee might support the work of Codex by advancing the understanding and use of the relevant Codex principles and guidelines in this area.

- *Unnecessary delays in adoption of Codex Food Additive Standards*

During the March 2018 Committee meeting, the United States drew Members' attention to the challenge being faced in the Codex Committee on Food Additives (CCFA), where 1,200 food additive provisions were being blocked by certain Codex members, unless a note (i.e. Note 161) was appended specifying that the standard was "subject to the national legislation of the importing country…". The United States indicated that each of the substances in the blocked provisions had already been reviewed by the Joint Expert Committee of Food Additives (JECFA) and found to be safe. These roadblocks had hampered CCFA's ability to establish international standards for food additives, particularly in relation to provisions for colours and sweeteners. Recalling that Codex standards were not mandatory or binding, and that all Codex standards were subject to national legislation, the United States argued that inserting Note 161 might call into question the standard itself, or other Codex standards that did not contain the note, as well as damage the overall status of Codex standards. In addition, the United States was of the view that insertion of the note was not consistent with the role accorded to Codex, by the SPS Agreement, to foster international harmonization of standards.

The United States observed that in order to make progress in CCFA's work, Codex had adopted 400 food additive provisions containing this note over the past several years, however, certain countries had decided not to use food additive standards that contained Note 161, resulting in additives being banned without scientific justification. The United States further emphasized the far-reaching consequences of this issue, noting that many countries relied on the Codex General Standards for Food Additives as the basis for their national standards, and as such, the lack of adoption of these food additive provisions could prevent countries from permitting foods with these safe additives. The United States observed that this issue eroded the scientific foundation of Codex, and further urged Members to eliminate the use of Note 161, as well as to facilitate adoption of standards for safe additives. Finally, the United States requested Codex to provide the Committee with further information on this issue, in accordance with paragraph 9 of the Committee Decision contained in document G/SPS/11/Rev.1.

Argentina shared the concerns of the United States and reminded the Committee that in order for an additive to be included on the list of Codex permitted substances, a scientific risk evaluation of the substances had to be first undertaken by JECFA. This ensured the scientific foundation for decisions taken by CCFA. In this regard, Argentina underscored that the use of Note 161 was contrary to the spirit of Codex and its role as the international standard-setting body for food safety, as recognized by the SPS Agreement. Argentina considered that the inclusion of Note 161 could lead Members to reject the approval of additives, and to believe that they were exempted from undertaking a scientific risk assessment. Finally, Argentina highlighted the wide-ranging effects of this issue which deserved the attention of the Committee.

Codex informed the Committee that CCFA was developing a discussion paper to address the ongoing challenges being faced in relation to a number of issues, such as addressing the backlog of provisions in the General Standards on Food Additives, and availability of limited resources to CCFA. A draft version of this discussion paper was available on the Codex website and would be discussed in the upcoming March 2018 CCFA session. Codex invited Members and Observers to submit comments on the draft discussion paper.

1.6 Technical assistance

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 undertaken by the Codex.

On 30 and 31 October 2017, the WTO organized a workshop on Transparency in Geneva. The workshop was open to all Members, Observer governments and organizations with observer status in the SPS Committee. Various funding arrangements made it possible for a large number of developing country and least developed country (LDC) participants to attend the workshop. The objective of the workshop was to bring together officials from Members' SPS National Enquiry Points, National Notification Authorities and other relevant authorities for hands-on training on the improved versions of the SPS Information Management System (SPS IMS) and the SPS Notification Submission System (SPS NSS), and on the ePing SPS/TBT notification alert system. In addition, the workshop provided an open platform for discussion and sharing of national experiences and best practices concerning the implementation of the transparency provisions, in particular, in conducting public consultations when developing SPS regulations. Presentations were made by the WTO Secretariat, the OECD, the World Bank, and developed and developing country Members. A summary of the various sessions of the workshop is provided in the workshop report.[11]

The programme[12] and presentations of the workshop are available from the "Events, workshops and training" section under the WTO SPS Gateway (http://www.wto.org/english/tratop_e/sps_e/events_e.htm).

At the March 2018 SPS Committee meeting, the WTO Secretariat presented 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 2017.[13]

Documents G/SPS/GEN/997/Rev.8 and G/SPS/GEN/997/Rev.8/Add.1, circulated on 30 January 2018 and 16 March 2018 respectively, provide information on all WTO technical assistance activities in the SPS area planned for 2018, including the Geneva-based advanced course which provides in-depth and hands-on training to government officials. The WTO Secretariat will schedule regional SPS workshops in 2018, upon request from regional organizations. The Follow-up Regional SPS Workshop for Arab countries (co-organized with the IMF-Middle East Centre for Economics and Finance), which was postponed in 2017, was held in April 2018. 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

The SPS Committee is mandated to review the operation and implementation of the SPS Agreement every four years. As agreed in its Second Review[14], the Committee developed a procedure to facilitate the use of ad hoc consultations and negotiations to resolve trade problems.[15] 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. In October 2015, the Secretariat introduced the first annual report on the use of the procedure[16], which covers the period from the adoption of the procedure in July 2014 until the end of September 2015. During this time-period, no Member had requested consultations under this procedure.

In accordance with the procedures for the Fourth Review, the Committee considered the revised report of the Review for adoption at its October 2014 meeting. The report was further revised based on Members' comments and suggestions at the October 2014 meeting, and Members were invited to submit comments in writing by the end of 2014, with a view to its adoption during the March 2015 regular meeting. Members accepted the inclusion of the first two suggestions contained in document G/SPS/W/282. However, the Committee did not reach consensus on the report's adoption and Members continued discussions during 2015 and 2016 to bridge differences particularly on a recommendation under section 14 on SPS-related private standards.

[11] G/SPS/R/89.
[12] G/SPS/GEN/1568/Rev.2.
[13] G/SPS/GEN/521/Rev.13.
[14] G/SPS/36.
[15] G/SPS/61.
[16] G/SPS/GEN/1457.

At its July 2017 regular meeting, the Committee agreed on the inclusion of new language in section 14, circulated in document RD/SPS/15 and adopted the report on the Fourth Review of the Operation and Implementation of the SPS Agreement.

In the November 2017 Committee meeting, Members requested the Secretariat to prepare a draft process for the Fifth Review of the Operation and Implementation of the SPS Agreement. Members discussed this draft process in the March 2018 Committee meeting and adopted it with a few modifications, thereby launching the Fifth Review.

1.8 Private and commercial standards

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.[17] 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.

In October 2013, the SPS Committee formed an electronic working group (e-WG) focussed on developing a working definition of an SPS-related private standard, with China and New Zealand as "co-stewards". In 2014, the co-stewards circulated two reports on the work of the e-WG[18], but no consensus was reached by the Committee on a working definition. In March 2015, the co-stewards presented their latest report on the work of the e-WG.[19] They noted that the e-WG, while very close, had not been able to reach consensus on the working definition and therefore the SPS Committee agreed that the e-WG take a cooling off period.

In 2015 and 2016, Members continued discussing the topic, however, the Committee did not make any further progress. Private standards remain a growing concern among developing countries, many of which urged continued efforts to find a compromise.

In the November 2017 SPS Committee meeting, Belize suggested that the Committee could organize a workshop or thematic session, where Members could volunteer to share their perspectives and experiences on third party certification schemes. Some Members expressed their willingness to consider the suggestion of the thematic session, subject to views from their capitals, and without prejudice to their previously stated positions on private standards.

[17] G/SPS/55.
[18] G/SPS/W/276 and G/SPS/W/281.
[19] G/SPS/W/283.

2 WORK OF THE TBT COMMITTEE

The TBT Committee held three regular meetings in 2017: on 29-30 March, on 14-15 June and on 8-9 November. The Committee also met on 21-22 March 2018 and will hold two additional regular meetings during 2018: on 20-21 June and on 14-15 November.

A total of 2,585 TBT notifications were submitted in 2017, the most notifications submitted in one year since the Agreement went into force in 1995. These notifications were submitted by 82 Members, the highest level of participation in submission of notifications in any year since 1995. There has been a marked increase in notifications from developing and least-developed Members since 2004, and the majority of notifications (83%) in 2017 were submitted by this group of Members.

In 2017 and during the first meeting of 2018, Members discussed 82 specific trade concerns (STCs), of which 33 related to food and beverages. Codex standards were referred to in 11 of these (please see Annex I for further details).

The Committee held three thematic sessions on good regulatory practice, conformity assessment procedures, and risk assessment; and began work on the Eighth Triennial Review of the Operation and Implementation of the TBT Agreement. The Review will be driven by proposals from Members and is scheduled to be completed in November 2018.

Further information and details on the work of the TBT Committee during the course of 2017 can be found in the report of the Annual Review of the Implementation and Operation of the TBT Agreement contained in document G/TBT/40.

3 OTHER RELEVANT WTO ACTIVITIES

3.1 The WTO dispute settlement procedure

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.[20] 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 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.

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.

3.1.1 SPS disputes

As of April 2018, more than 540 complaints had formally been raised under the WTO's dispute settlement procedures. Of these, 49 alleged violations of the SPS Agreement, and the SPS Agreement was relevant also in two other disputes. Twenty-four SPS-related complaints, on 19 issues, have been referred to a panel.

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

Fifteen complaints addressed food-safety related issues:

- Complaints by the United States and Canada in 1996 regarding the European Communities' ban on meat treated with growth-promoting hormones; *EC - Hormones* (WT/DS26 and WT/DS48, respectively);
- Complaints by the United States, Canada and Argentina in 2006 regarding the European Communities' measures affecting the approval and marketing of biotech products; *EC – Approval and Marketing of Biotech Products* (also referred to as *EC - GMOs*) (WT/DS291, WT/DS292 and WT/DS293, respectively);

[20] 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.

- Complaints by the European Communities in 2008 regarding the United States' and Canada's continued suspension of obligations relating to the EC - Hormones dispute; *US – Continued Suspension and Canada - Continued Suspension* (WT/DS320 and WT/DS321, respectively);
- A complaint by the United States in 2009 regarding European Communities' measures affecting poultry meat and poultry meat products; *EC - Poultry* (WT/DS389);
- A complaint by Canada in 2009 regarding Korea's measures affecting the importation of bovine meat and meat products from Canada; *Korea - Bovine Products* (WT/DS391);
- A complaint by China in 2009 regarding US measures affecting imports of poultry; *US - Poultry* (WT/DS392);
- A complaint by Brazil in 2014 regarding Indonesia's measures concerning the importation of chicken meat and chicken products; *Indonesia – Chicken* (WT/DS484);
- A complaint by Japan in 2015 regarding Korea's measures on import bans, and testing and certification requirements for radionuclides; Korea — Radionuclides (WT/D495);
- A compliant by Brazil in 2016 regarding certain measures imposed by Indonesia on the importation of meat from cattle of the species Bos Taurus; *Indonesia — Bovine Meat* (WT/DS506);
- A complaint by Mexico in 2017 regarding certain measures imposed by Costa Rica that allegedly restrict or prohibit the importation of fresh avocados for consumption from Mexico (WT/DS524); and
- A complaint by Viet Nam in 2018 concerning certain measures affecting the importation into the United States of pangasius seafood products from Viet Nam, purportedly because of sanitary and phytosanitary concerns (WT/DS540).

Dispute settlement Panel/Appellate Body reports have been adopted with respect to the following food safety issues: (i) the EU ban on imports of meat treated with growth-promoting hormones, challenged by the United States and by Canada (EC - Hormones) and the subsequent EU challenge of compensatory measures imposed by Canada and the United States; (ii) EU measures affecting the approval and marketing of biotech products, brought by the United States, Canada and Argentina (EC – Approval and Marketing of Biotech Products); (iii) US measures affecting imports of poultry from China (US - Poultry); and (iv) Indonesian measures affecting imports of chicken from Brazil.

No Panel has to date been composed to consider the US complaint regarding EU poultry restrictions, Viet Nam's complaint regarding pangasius seafood products, and Mexico's complaint regarding avocados. Canada and Korea announced a mutually satisfactory solution in their BSE-related dispute before the panel issued its report.

3.1.2 Recent developments on SPS disputes

On 21 May 2015, Japan requested consultations with respect to Korea's measures adopted subsequent to the accident at the Fukushima Daiichi nuclear power plant in March 2011 regarding: (a) import bans on certain food products; (b) additional testing and certification requirements regarding the presence of certain radionuclides; and (c) a number of alleged omissions concerning transparency obligations under the SPS Agreement. The Panel Report was circulated on 22 February 2018. Korea notified the DSB of its decision to appeal on 9 April 2018.[21]

On 8 March 2017, Mexico requested consultations with Costa Rica with respect to certain measures imposed by Costa Rica that allegedly restrict or prohibit the importation of fresh avocados for consumption from Mexico.[22]

On 21 March 2017, the Dispute Settlement Body (DSB) adopted the Panel and Appellate Body Reports in the dispute concerning EU's complaint against Russian measures affecting the importation of live pigs pork, pork products and certain other commodities because of African Swine Fever (ASF).[23] Thereafter, on 3 January 2017, the matter was referred to arbitration under Article 22.6 of the Understanding on the Settlement on Disputes (DSU), and on 7 February 2018, Russia requested consultations under Article 21.5 (compliance proceedings) of the DSU.

On 17 October 2017, the Panel Report was circulated on the dispute concerning Indonesia's measures concerning the importation of chicken meat and chicken products.[24] The Panel report was adopted by the DSB on 22 November 2017.

[21] WT/DS495.
[22] WT/DS524.
[23] WT/DS475.
[24] WT/DS484.

After the adoption of the Panel and Appellate Body Reports on the dispute regarding India's import restrictions on agricultural products (poultry and poultry products) on 19 June 2015, the United States requested authorization to retaliate against India and the matter was referred to arbitration under Article 22.6 of the DSU on 19 July 2016.[25] Thereafter, on 6 April 2017, India requested consultations with the United States under Article 21.5 (compliance proceedings) of the DSU. The arbitration and compliance proceedings are now ongoing.

On 22 February 2018, Viet Nam requested consultations with the United States concerning certain measures affecting the importation into the United States of pangasius seafood products from Viet Nam, purportedly because of sanitary and phytosanitary concerns.[26] On 9 March 2018, China requested to join the consultations.

The developments in these and other disputes can be followed at http://www.wto.org/disputes.

3.2 The Standards and Trade Development Facility

The Standards and Trade Development Facility (STDF) is a fund created by the FAO, OIE, the World Bank, the World Health Organization (WHO) and the World Trade Organization (WTO) to assist developing countries enhance their capacity to meet international sanitary and phytosanitary (SPS) standards, improving the human health, animal health and phytosanitary situation, and thus gaining and maintaining market access. The WTO is the administrator of the STDF and provides the secretariat. Relevant information regarding the operation of the STDF is being provided in a separate document.

3.3 Trade facilitation

At the WTO's 9th Ministerial Conference in Bali, Indonesia in December 2013, Members concluded negotiations of the Trade Facilitation (TF) Agreement.[27] 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.

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[28] to insert the new Agreement into Annex 1A of the WTO Agreement. The TF Agreement entered into force on 22 February 2017, after two-thirds of WTO Members completed their domestic ratification process in accordance with Article X: 3 of the WTO Agreement.[29] The TF Agreement is the first multilateral trade deal delivered by the WTO since its creation and represents a major breakthrough in the history of the organization.

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 that provide implementation flexibilities 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.

The first meeting of the Trade Facilitation Committee was held in May 2017, followed by three subsequent meetings in July 2017, November 2017 and May 2018.[30]

In order for a WTO Member to take advantage of the implementation flexibilities, it must designate and notify to the WTO the measures that it can implement immediately, and which it can only implement with more time and/or technical assistance.[31]

In July 2014, the WTO announced the launch of the Trade Facilitation Agreement Facility, which will assist developing and least-developed country Members in implementing the WTO's TF Agreement. The Facility became operational in November 2014.

[25] WT/DS430.
[26] WT/DS540.
[27] WT/MIN(13)/36, WT/L/911.
[28] WT/L/940.
[29] WT/MIN(13)/36, WT/L/911, paragraph 2.
[30] More information can be found on the Trade Facilitation gateway page: https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm
[31] 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.

The TF Agreement concerns all border agencies – not just customs authorities. Although the negotiators took care to avoid overlap or clash with provisions of the SPS Agreement, they also included language to address possible conflicts. Paragraph 6 of the Final Provisions of the TF Agreement states that "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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Annex I

Specific trade concerns raised in the TBT Committee during the March, June, November 2017 meetings and the March 2018 meeting

Further information on each specific trade concern can be retrieved by clicking on the IMS ID hyperlink in the first column. Those concerns highlighted in gray include references by Members to Codex standards.

IMS ID	First date raised	Title	Member(s) concerned
332	20/03/2012	Russian Federation –- Draft Technical Regulation on Alcohol Drinks Safety (published on 24 October 2011) (ID 332)	Argentina; Australia; Guatemala; Mexico; New Zealand; South Africa; Ukraine; United States of America; European Union
345	13/06/2012	European Union –- Draft Implementing Regulations amending Regulation (EC) No. 607/2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (ID 345)	Argentina; Australia; Canada; New Zealand; South Africa; United States of America; Brazil
383	17/06/2013	Peru –— Act to Promote Healthy Eating Among Children and Adolescents (ID 383)	Argentina; Brazil; Canada; Colombia; Costa Rica; Guatemala; Mexico; Switzerland; United States of America; European Union
393	17/06/2013	European Union –— Revised Proposal for the Categorization of Compounds as Endocrine Disruptors of 19 February 2013 by DG Environment (ID 393)	Argentina; Australia; Brazil; Canada; Chile; Colombia; Guatemala; Mexico; New Zealand; South Africa; Thailand; Egypt; United States of America; Ecuador; Uruguay; Costa Rica; Panama
411	19/03/2014	Ecuador –- Resolution No. 116 of the Foreign Trade Committee of Ecuador of 19 November 2013 and Technical Regulation of the Ecuadorian Standardization Institute RTE INEN 022 on the labelling of processed and packaged food products (ID 411)	Brazil; Canada; Chile; Colombia; Costa Rica; Guatemala; Mexico; Peru; Switzerland; United States of America; European Union
427	18/06/2014	Thailand –- Draft Notification of the Alcoholic Beverages Control, Re: Rules, Procedure and condition for Labels of Alcoholic Beverages, issued under B.E. (ID 427)	Australia; Canada; Chile; Guatemala; Japan; Mexico; New Zealand; South Africa; United States of America; European Union
442	05/11/2014	Kingdom of Saudi Arabia, Kingdom of Bahrain, State of Kuwait, Oman, Qatar, United Arab Emirates, Yemen — The Cooperation Council for the Arab States of the Gulf Draft Technical Regulation for "Requirements of Handling Energy Drinks" (ID 442)	Switzerland; United States of America; European Union

IMS ID	First date raised	Title	Member(s) concerned
470	17/06/2015	Brazil - Draft Ordinance Act Nº. 374, 27 November 2014 (Portaria SDA/MAPA 374/2014) Establishes quality requirements for wine and derivatives of grape and wine (ID 470)	United States of America; European Union
493	09/03/2016	China - Formula Registration Regulation for Infant and Follow-up Formula (ID 493)	Japan; Korea, Republic of; New Zealand; United States of America; European Union
494	09/03/2016	India - Draft Food Safety and Standards (Alcoholic Beverages Standards) Regulations, 2015 (ID 494)	Australia; Canada; Chile; Guatemala; Japan; Mexico; New Zealand; South Africa; Switzerland; United States of America; European Union
502	09/03/2016	Indonesia - Halal Product Assurance Law No. 33 of 2014 (ID 502)	Australia; Brazil; New Zealand; United States of America; European Union; Canada
503	09/03/2016	Thailand - Milk Code - Draft Act on Controlling to the Marketing Promotion on Food for Infant and Young Children and Other Related Products BE (ID 503)	Australia; New Zealand; United States of America; European Union; Canada
505	15/06/2016	Egypt - Manufacturer Registration System (Decree No. 43/2016 and Decree No. 992/2015) (ID 505)	Australia; Canada; Chile; China; Norway; South Africa; Switzerland; Turkey; Ukraine; United States of America; European Union; Thailand
510	15/06/2016	Kenya, Uganda, Tanzania, Rwanda, Burundi - East African Community (EAC) alcoholic beverage standards (ID 510)	Chile; South Africa; United States of America; European Union
511	15/06/2016	The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu - Draft of the Organic Agriculture Act (ID 511)	European Union
512	15/06/2016	European Union - Quality Schemes for Agricultural Products and Foodstuffs (ID 512)	United States of America; Uruguay; Argentina; Kenya
516	10/11/2016	Ireland —- Public Health (Alcohol) Bill 2015 (ID 516)	Guatemala; Mexico; Argentina; United States of America; Chile; New Zealand
517	10/11/2016	Bolivia —- Technical regulations on the labelling of foods and products destined for human consumption that consist of, contain or derive from genetically modified organisms (ID 517)	Guatemala; Mexico
518	10/11/2016	Korea -— Amendment of the Notifications on Warning Messages on Smoking and Drinking (ID 518)	Australia; Canada; Japan; Mexico; New Zealand; United States of America; European Union; Chile
519	10/11/2016	Kenya, Uganda, Tanzania, Rwanda, Burundi -— Alcoholic beverages specifications (ID 519)	United States of America; European Union
523	10/11/2016	European Union –- Country of Origin Labelling (ID 523)	New Zealand; United States of America; Brazil; Indonesia; Canada; Australia; Mexico; Uruguay

IMS ID	First date raised	Title	Member(s) concerned
524	29/03/2017	European Union - Organic production and labelling - Maté (erva-mate) (ID 524)	Brazil
530	29/03/2017	Italy – Labelling requirements of the origin of grains used in the preparation of dried pasta (ID 530)	Mexico; United States of America; Canada; Brazil
531	29/03/2017	Brazil – Regulation RDC No 123 on food additives and processing aids authorised for use in wine of 4 November 2016 (ID 531)	European Union
532	29/03/2017	Viet Nam – Alcoholic Beverages (ID 532)	Mexico
535	14/06/2017	European Union — Regulation (EC) No 1107/2009 - non-renewal of approval of the active substance picoxystrobin (ID 535)	Brazil; Canada; Argentina
540	14/06/2017	Oman, Kingdom of Bahrain, State of Kuwait, Qatar, Kingdom of Saudi Arabia, United Arab Emirates, Yemen - Guide for control of imported foods – Certification requirements for animal products (ID 540)	United States of America; European Union
541	14/06/2017	Nepal — National Alcohol Regulation and Control Policy – Graphic Warnings and Statements for Alcoholic Beverages (ID 541)	United States of America; European Union; Canada
542	14/06/2017	United States - Standards of Identity for Cheese (ID 542)	Canada
543	14/06/2017	United States - Wisconsin butter laws (ID 543)	Canada
547	08/11/2017	China — Certification requirements for processed foods (ID 547)	European Union; United States of America; Guatemala; Singapore; Chinese Taipei; Japan
555	21/03/2018	European Union — Application of Regulation No. 1169/2011 and Regulation (EC) No. 1924/2006 as regards the labelling of food products, in not prohibiting or examining the use of "palm oil free" labels	Colombia; Indonesia; Costa Rica; Guatemala; Thailand; Malaysia
556	21/03/2018	Thailand - New certification requirements under the Thai Ministry of Finance's Ministerial Notification on Importation of Spirits into the Kingdom of Thailand (B.E 2560)	Australia; United States of America; Japan; European Union