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ALIEN SPECIES THAT THREATEN ECOSYSTEMS, HABITATS OR SPECIES (ARTICLE 8 (h)): REPORT ON CONSULTATIONS REGARDING INTERNATIONAL STANDARDS

Note by the Executive Secretary

Executive Summary

In paragraph 14 of decision VIII/27, the Conference of the Parties requested the Executive Secretary to consult with relevant international bodies and instruments, such as the International Plant Protection Convention (IPPC), the World Organisation for Animal Health (OIE), the Food and Agriculture Organization of the United Nations (FAO), and the World Trade Organization (WTO), taking into account the observations of the report of the Ad Hoc Technical Expert Group on Gaps and Inconsistencies in the International Regulatory Framework in Relation to Invasive Alien Species (UNEP/CBD/SBSTTA/11/INF/4), regarding whether and how to address the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the International Plant Protection Convention, and to report on the results of these consultations for consideration by the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) and by the Conference of the Parties at its ninth meeting.

Correspondence and conference calls between the Executive Secretary and WTO, OIE, FAO and IPPC were conducted in 2006/07. The above organizations clarified their mandates, informed on their activities and provided suggestions and identified obstacles to addressing the gaps in the regulatory framework in relation to invasive alien species. The Executive Secretary also consulted informally with members of the WTO Sanitary and Phytosanitary (SPS) Committee prior to a meeting of that Committee in October 2006, and with members of the FAO Commission on Phytosanitary Measures – the governing body of the IPPC – in March 2007.

The conclusions arising from the consultations are as follows:

1. While the scope of the SPS Agreement is understood to be broad, the SPS Committee has not formally discussed invasive alien species, nor has it considered any potential gap in the mandates of the three standard-setting organizations or the need to recognize any standards developed by other

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relevant international organizations. However, informally many delegates to the Committee have agreed that international standards to address invasive alien species that are not pests of plants could be desirable;

2. Under the current mandate granted by member countries and territories, the OIE can address invasive alien species that are pathogens of animals, including livestock, companion animals and wildlife, and that meet the OIE criteria for listing of diseases/pathogens;

3. Beyond diseases, OIE might conceivably address the invasiveness of terrestrial vertebrates (or some types of terrestrial vertebrates), building upon the work of the OIE expert working group on wildlife. However this would involve an expansion of the organization's mandate and significant additional resources, which would need to be contributed by members. Both a widening of mandate and significant augmentation of resources are likely to be difficult to obtain. This approach may not be appropriate given the field of expertise represented in the organization;

4. Thus, the specific gaps already identified by the Ad Hoc Technical Expert Group (AHTEG) are likely to largely remain, even with a broad interpretation of the term "pests of plants" by the IPPC and of the term "diseases of animals" by OIE. These gaps are:

(a) Conveyances as pathways for invasive alien animals;

(b) Introduction of alien species in fisheries and aquaculture;

(c) Introduction of alien species as pets, including aquarium species, such as fish, reptiles, or insects, and as live bait and live food;

5. Additional activities by the Convention on Biological Diversity and FAO may be useful in addressing these remaining gaps, including the formalization of existing standards;

6. Thus, the gaps could be addressed in a two-stage approach, firstly through IPPC and OIE, and secondly by considering standards developed outside these two organizations as proposed in the following draft recommendations.

DRAFT RECOMMENDATIONS

The Subsidiary Body on Scientific, Technical and Technological Advice may wish to recommend that the Conference of the Parties adopts, at its ninth session, a decision along the following lines:

The Conference of the Parties,

Recalling paragraph 14 of decision VII/27,

1. *Invites* the International Committee of the World Organisation for Animal Health (OIE) to note the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the International Plant Protection Convention, and to consider whether and how it could contribute to addressing this gap, including for example by:

(a) Expanding the OIE list of pathogens to include a wider range of diseases of animals, including diseases that solely affect wildlife; and

(b) Considering whether it may play a role in addressing invasive animals that are not diseases;

2. *Invites* the Committee on Sanitary and Phytosanitary Measures of the World Trade Organization to note the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the International Plant Protection Convention, nor diseases that are listed by the World Organisation for Animal Health, and to consider ways and means of ensuring that the provisions in the Sanitary and Phytosanitary Agreement of the World Trade Organization covering animal and plant health can be implemented in a comprehensive manner to address all risks from invasive alien species associated with international trade, including for example, the possible need for additional international standards;

3. *Invites* the Committee on Fisheries of the Food and Agriculture Organization of the United Nations to note the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the International Plant Protection Convention, and to consider further ways and means to address this gap as it applies to the introduction of alien species for fisheries and aquaculture, including for example by formalizing relevant technical guidance developed by the secretariat of the Food and Agriculture Organization of the United Nations as international standards;

4. *Encourages* Parties and other Governments to raise the above issues formally through their national delegations to the World Organisation for Animal Health, the Food and Agriculture of the United Nations and the World Trade Organization;

5. *Invites* Parties, other Governments and relevant organizations to submit examples of best practices for addressing the risks associated with the introduction of alien species as pets, including aquarium species, such as fish, reptiles, or insects, and as live bait and live food;

6. *Requests* the Executive Secretary, in collaboration with the Global Invasive Species Programme, the IUCN Invasive Species Working Group, the International Civil Aviation Organization and other relevant organizations to collate best practices for addressing the risks associated with the introduction of alien species as pets, including aquarium species, such as fish, reptiles, or insects, and as live bait and live food, and to make this information available through the clearing-house mechanism, and to report to the tenth meeting of the Conference of the Parties.

I. INTRODUCTION

1. In paragraph 14 of decision VIII/27, the Conference of the Parties requested the Executive Secretary to consult with relevant international bodies and instruments, such as the International Plant Protection Convention (IPPC), the World Organisation for Animal Health (OIE), the Food and Agriculture Organization of the United Nations (FAO), and the World Trade Organization (WTO), taking into account the observations of the report of the Ad Hoc Technical Expert Group on Gaps and Inconsistencies in the International Regulatory Framework in Relation to Invasive Alien Species (UNEP/CBD/SBSTTA/11/INF/4), regarding whether and how to address the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the International Plant Protection Convention, and to report on the results of these consultations for consideration by the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) and by the Conference of the Parties at its ninth meeting.

2. Section II of the present note reviews the main conclusions of the Ad Hoc Technical Expert Group (AHTEG) with regard to the lack of international standards covering invasive alien species, that are not pests of plants under IPPC with a view to providing the necessary background to the issue. ^{1/} Section III lists consultations that the Executive Secretary has undertaken on this issue in line with the decision of the Conference of the Parties. Section IV summarizes the findings of these consultations, and section V provides some conclusions.

II. BACKGROUND

3. The Ad Hoc Technical Expert Group (AHTEG) on Gaps and Inconsistencies in the International Regulatory Framework in Relation to Invasive Alien Species noted, in paragraph 21 of its report (UNEP/CBD/SBSTTA/11/INF/4):

“A significant general gap in the international regulatory framework relates to lack of international standards to address animals that are invasive alien species but are not pests of plants under the International Plant Protection Convention. Some of the specific gaps identified in this report, including in particular various conveyances as pathways for invasive alien animals, could be viewed as subsets of this broader issue.”

4. The AHTEG elaborated on this point in paragraph 31 of the report:

“In particular, there is a general gap in relation to animals that are invasive alien species but are not marine, ^{2/} aquatic or terrestrial pests ^{3/} of plants under the IPPC (e.g., snails, snakes, rats, birds, ants, fish, etc., which are not directly or indirectly injurious to plants in a particular case).”

5. The AHTEG report identified the following subsets of this issue

(a) Conveyances as pathways for invasive alien animals such as vessels, floating timber, equipment and machinery, household goods, packaging and containers, and waste materials (paragraph 50 of the AHTEG report);

^{1/} While the note focuses on animals, it also briefly addresses other organisms that are invasive species in line with the more general formulation in decision VIII/27 of the Conference of the Parties.

^{2/} The AHTEG noted that although the scope of the IPPC is all types of plants, implementation of the IPPC in many countries does not cover marine plants.

^{3/} The IPPC defines a pest as “any species, strain or biotype of plant, animal or pathogenic agent [directly or indirectly] injurious to plants or plant products”.

(b) Alien species in aquaculture (freshwater and marine, as well as land-based systems), including deliberate introduction of cultured species themselves, hitchhikers on cultured species or equipment and goods and associated disease organisms not covered by OIE (NB: some fish and shellfish diseases are covered by OIE) (paragraph 55 of the AHTEG report).

(c) Introduced pets, including aquarium species, such as fish, reptiles, or insects, and live bait and live food that can become invasive (paragraph 86 of the AHTEG report).

6. The gap identified by the AHTEG concerns the lack of recognized formal standards set at the international level in relation to animals that are invasive species but are not considered as pests of plants under the IPPC (paragraph 30 of the AHTEG report). For the purposes of this paper, *formal* refers to standards set by an appropriate intergovernmental body, and *recognized* refers to standards that are recognized for the purposes of the WTO Agreement on Sanitary and Phytosanitary Measures (the “SPS Agreement”). Standards may include also guidelines and recommendations. As noted in paragraph 30 of the AHTEG report:

“The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) enables sanitary and phytosanitary measures to be taken, in the context of trade, to protect human, animal or plant life or health, provided that those measures either conform to international standards or are scientifically justified on the basis of assessment of risks. The SPS Agreement recognizes international standards developed by relevant international organizations, in particular standards established under the 1997 International Plant Protection Convention (IPPC), the World Organisation for Animal Health, or the Codex Alimentarius Commission.”

7. The AHTEG discussed the role and relevance of international standards in paragraph 32 of its report:

“Controls on most pathways for invasive alien species have to be implemented at the national level, and international standards do not in themselves constitute controls. Furthermore, international standards are not the only way to provide a framework for national measures, as these can be provided in a variety of ways by a wide range of organisations. International standards do, however, have a number of potential benefits:

- (a) National measures based on international standards developed by standard-setting bodies, recognized by the SPS Agreement or the SPS Committee, are presumed to be consistent with the provisions of the SPS Agreement.
- (b) Standards are likely to result in greater harmonization of measures at the international and national level, reducing compliance costs.
- (c) Standards may be more likely to be implemented than other forms of guidance.”

8. The AHTEG identified possible ways to address the lack of standards in paragraph 33 of its report and suggested consultations with relevant bodies in paragraph 34.

“Potential ways to address the lack of standards for animals which do not qualify as pests of plants under the IPPC that could be investigated include:

- (a) Expansion of the mandate of the World Organisation for Animal Health beyond a limited number of animal diseases;
- (b) Development of a new instrument or binding requirements under an existing agreement or agreements such as the Convention on Biological Diversity or other appropriate frameworks;
- (c) Development of non-binding guidance.

“Further study may be appropriate in order to provide a more definitive assessment of whether and how to address this lack of international standards for animals that are invasive alien species but do not qualify as pests of plants under the IPPC. It will be important to weigh the benefits and costs of creating standard(s) and/or a new authority or instrument. A discussion convened

under the auspices of the Convention on Biological Diversity involving relevant international bodies and instruments (e.g., CBD, IPPC, OIE, FAO, WTO) may be appropriate in order to facilitate such study.”

III. CONSULTATION PROCESS

9. The Executive Secretary wrote to the secretariats of WTO, OIE, FAO and IPPC during 2006, to explain the mandate for consultations and to invite each organization to provide views on the issue, and to suggest mechanisms for further consultation.

10. The OIE and WTO responded in mid-2006, and FAO responded in early 2007 on behalf of both FAO and IPPC.

11. After discussing with the Committee on Sanitary and Phytosanitary Measures in June 2006, WTO extended an invitation to the Executive Secretary to consult informally with members of the SPS Committee prior to its meeting. The Executive Secretary accepted the invitation and consultations were convened in October 2006.

12. The OIE Secretariat supplied a communication paper to the SPS Committee in relation to the informal session with SPS Committee members in October 2006. The OIE had previously written to the Convention on Biological Diversity, setting out its policies and agreeing to ongoing consultation on this issue. During the informal consultation with SPS Committee members, some members of the SPS Committee recommended that the Secretariat of the Convention on Biological Diversity work together with the secretariats of the OIE and IPPC to further discuss the issue of international standards to address invasive alien species. This idea was also reflected in the summary report of the consultations by the Chair of the SPS Committee during the formal session of the SPS Committee.

13. The IPPC secretariat discussed the issue at the October 2006 meeting of the Informal Working Group on Strategic Planning and Technical Assistance (SPTA) of the IPPC. The findings were reported in a subsequent letter from FAO to the Executive Secretary. The letter also indicated FAO's support to the idea of further consultations between the secretariats of the Convention on Biological Diversity, OIE and IPPC. In addition, FAO invited the Executive Secretary to consult directly with members of the Commission on Phytosanitary Measures (CPM) at an evening session during the second meeting of the CPM in March 2007.

14. In January 2007, a conference call was held with representatives of the secretariats of the Convention on Biological Diversity, WTO, OIE and IPPC.

15. In March 2007, the Secretariat of the Convention on Biological Diversity consulted with IPPC member states in an informal session on the margins of the second meeting of the Commission on Phytosanitary Measures.

16. The Secretariat requested comments on an earlier draft of this document from WTO, FAO, FAO Fisheries, and OIE on 28 September 2007 and comments were received from these organizations and integrated into the text.

IV. SUMMARY OF FINDINGS FROM THE CONSULTATIONS

17. The consultations with IPPC, WTO, OIE and FAO, and among the secretariats of these organizations and the Convention on Biological Diversity, clarified mandates of organizations with regard to invasive alien animal species and provided suggestions on how to address gaps, as well as potential limitations to these suggestions.

A. Clarification of mandates and activities of the SPS Committee and recognized standard setting organizations with regard to invasive alien species which are not considered as pests of plants under the IPPC

1. The Agreement on Sanitary and Phytosanitary Measures

18. The SPS Agreement recognizes the following international standards, guidelines and recommendations (Excerpt from Annex A, para 3 of the SPS Agreement on Definitions):

“(a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission (...);

(b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the OIE; ^{4/}

(c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the IPPC in cooperation with regional organizations operating within the framework of the IPPC; and

(d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.”

19. It is relevant to note that the SPS definition of “animal” includes fish and wild fauna and “plant” includes forests and wild flora. Moreover, recent guidance resulting from the WTO panel on the Genetically Modified Organism dispute implies a broad interpretation of the scope of the SPS Agreement. The panel considered, while referring to annex A of the SPS Agreement, that “the scope of the phrase ‘animal or plant life or health’ is meant to be comprehensive in coverage”. In addition, the panel also considered that “in the context of the SPS Agreement the term ‘pest’ should be understood as referring to an animal or plant which is destructive, or causes harm to the health of other animals, plants or humans, or other harm, or a troublesome or annoying animal or plant”.

20. In its written communication, the WTO secretariat confirmed that as of July 2006, the SPS Committee had not had specific discussions regarding invasive alien species, although the concern has been raised as part of an explanation regarding a measure taken to prevent the possible introduction of plant pests. In addition, the SPS Committee had not considered any potential gap in the mandates of the three standard-setting organizations referenced in the SPS Agreement with regard to invasive alien species not covered by the IPPC, nor has it addressed the concern that many national plant protection organizations do not appear to address problems related to aquatic plants.

21. The WTO secretariat also clarified that there had not been consideration by the SPS Committee of recognizing any “other relevant international organization” for the development of standards, guidelines or recommendations for purposes of the SPS Agreement, as provided for in paragraph 3 (d) of annex A of the SPS Agreement. To date, no member has identified any need for the recognition of standards for matters not covered by the Codex, OIE or IPPC.

22. In his report to the formal meeting of the SPS Committee in October 2006, the Chair noted that: (i) a number of delegates agreed with the view that measures to address invasive alien species fell within the scope of the SPS Agreement; and (ii) many delegates agreed that international standards to address invasive alien species that are not pests of plants could be desirable.

23. During the informal consultations some SPS Committee members, responding to the question of which of the potential options identified by the Ad Hoc Technical Expert Group would be preferable,

^{4/} In May 2003, the OIE became the World Organisation for Animal Health but its acronym remains OIE.

indicated that expansion of the mandate of OIE would be the preferable option. While no members expressed preference for alternatives, it was pointed out that the views expressed were informal and that further consultations should explore the options in more detail.

2. *The World Organisation for Animal Health (OIE)*

24. In its written communication, the OIE Secretariat provided clarification regarding its mandate which relates to animal diseases, including animal diseases that affect humans (zoonotic diseases), animal production, food safety and animal welfare. International standards, guidelines and recommendations for animal health, published in the OIE Terrestrial Animal and Aquatic Codes and Diagnostic Manuals, aim to assure the safety of international trade in animals and animal products and to control animal diseases and zoonotic diseases worldwide while avoiding unjustified sanitary barriers. The OIE secretariat stated that the OIE would operate beyond its mandate if it developed international standards, guidelines or recommendations for species that are not included on the OIE lists of pathogens. The fundamental consideration in listing diseases is that they are pests or diseases of animals (and potentially man). Risk mitigation measures are also recommended for vectors of disease that are linked to an OIE listed disease, e.g. insects that transmit vector-borne diseases, and some of these organisms may be considered as potential invasive alien species .

25. In its communication to the SPS Committee in October 2006, OIE further clarified that, within the framework of OIE's role as a standard setting body under the SPS Agreement, OIE does not have a clear role in the containment or exclusion of alien species or invasive alien species where these are not related to diseases of animals (or zoonotic diseases). The paper also noted that OIE does not classify pathogens on the basis of their origin (i.e., classification does not depend on whether pathogens are considered to be "alien" or not). In addition, the OIE mandate does not address the impact that a species (as opposed to pathogenic agents and disease vectors) may have on the environment if a new disease becomes established in an importing country. The paper concluded that it would not, in the view of the OIE secretariat, be feasible to develop additional standards, guidelines and recommendations in the OIE Codes with the primary aim of preventing the spread of alien species where these are not systematically linked to a specific disease or group of diseases or disease vector (i.e. where the aim is to protect against the entry and spread of animal disease and zoonoses). Nonetheless, the SPS Agreement makes provision for member countries to include non-OIE-listed disease agents and diseases in international veterinary certificates for trade if these diseases/agents are considered to present a non acceptable risk for the importing country and on the basis of a scientifically based import risk analysis. OIE member countries could support by implication the exclusion of potentially invasive alien species, but this decision would remain the prerogative of the importing country and not be the subject of a prescription in the sense of the OIE standards.

26. At informal consultations on the margins of the second session of the Commission on Phytosanitary Measures in Rome in March 2007, one country representative noted that the OIE Administrative Commission, at its February 2007 meeting, had discussed the issue of the scope of the OIE in relation to the Convention on Biological Diversity and invasive alien species, had reconfirmed a desire to meet the needs of member countries, and had recommended that: (i) the Wildlife Working Group maintain a list of species that are invasive alien species, and (ii) there should be a specific review of this issue in a future edition of the OIE review. However, these recommendations need to be approved by the OIE International Committee at a general session.

27. As noted above, some members of the SPS Committee have expressed the view informally that the lack of international standards would be best addressed through an expansion of the activities of OIE. From discussions among the secretariats of the organizations, it was considered that in theory OIE could address a broader range of invasive alien species in at least two potential ways. First, since one of the criteria for listing diseases is capacity of a disease to establish and expand its range, OIE could possibly

address a wider range of diseases that are themselves invasive alien species. Since each disease on the current lists is associated with reporting and other responsibilities for OIE member States, those additional diseases could possibly be addressed in a separate list, to avoid this leading to undue burdens on member states. Such an expansion of diseases listed could be significant in addressing invasive alien species that are diseases of wild fauna but not currently addressed (but note that only a limited number of these would be themselves animals).

28. Second, beyond diseases, OIE may conceivably be a relevant body to deal with invasiveness of terrestrial vertebrates (or some types of terrestrial vertebrates) in general, regardless of whether those vertebrates are affected by disease. OIE has an existing expert working group on wildlife. Currently the OIE framework provides only limited capacity to address invasion pathways not directly associated with trade in animals or animal products (for example, OIE identifies measures to prevent the natural spread of vector borne diseases between countries and zones). This potential limitation would need to be explored further.

29. It should be noted that any expansion of the OIE activities or mandate would be subject to a decision of the OIE International Committee, which meets annually in May. Resource limitations would likely be a key concern of OIE International Committee members, particularly as the OIE mandate is already expanding in the areas of animal production food safety, diseases in wildlife and animal welfare. ^{5/} A significant expansion of the OIE mandate would need to be accompanied by a significant increase in resources to perform the work arising from the expanded mandate; both would need to be approved by the OIE member countries. It should also be noted that the OIE International Committee is composed of the national delegates, who are, for the most part, the chief veterinary officers of the member country or territory. The OIE draws upon a wide range of external expertise in addressing particular matters. However, it would not be appropriate for OIE to propose guidance on issues that are so far outside the expertise and national responsibility of delegates that they could not be adequately addressed. Nor would delegates be likely to place a higher priority on establishing an expanded mandate if they had any concerns that this could interfere with the core work of OIE (e.g., in the absence of additional resources).

3. *International Plant Protection Convention*

30. The IPPC develops International Standards for Phytosanitary Measures (ISPM). These, in particular ISPM Nos. 2, 11, and 21 provide a risk analysis process on which to base the consideration of the risks to plant health from pests or diseases imported on plants and plant materials, and regulated articles, including inanimate objects. At informal consultations on the margins of the second session of the Commission on Phytosanitary Measures in Rome in March 2007, the usefulness of the IPPC International Standards on Phytosanitary Measures was highlighted. It was considered that the risk assessment framework for pests of plants is broadly applicable and could serve as model procedures. However, even if the procedures are technically appropriate for invasive species that are not pests of plants, they may not have the necessary legal status in that respect. Under the two standard-setting bodies, application of the risk analysis frameworks are limited by the mandates of the organizations. The OIE framework can not be applied to animal and human health pests carried on inanimate objects and plants or plant products, while the IPPC framework can only be applied to the placement of measures for pests and diseases carried by these products if they impact plant health. As such, pests and diseases that can be carried by plant products or inanimate objects that impact on human and animal health are not

^{5/} The OIE's funding is based in large part on the contributions of members (statutory and voluntary). Any expansion of the OIE mandate would require additional staff and funding, which would imply an increase in Members' contributions unless other sustainable sources could be identified. OIE member contributions have been increased recently and the OIE does not anticipate presenting a proposal for a further increase in the near future.

covered under either OIE or IPPC. Beyond legal issues, and the absences of standards, the importance of limited capacity and awareness issues as limiting factors was emphasized.

31. In its written response to the Executive Secretary, FAO reported on the discussion that took place at the October 2006 meeting of the Informal Working Group on Strategic Planning and Technical Assistance of IPPC. The Informal Working Group highlighted that individual countries can exercise border control against invasive alien species despite the gaps identified, even though such control may not necessarily be covered by phytosanitary legislation. Moreover, it was emphasized that the gap in the international framework regarding animals that may be invasive alien species referred to the lack of comprehensive references in international treaties but did not refer to problems that may be experienced by developing countries, which could be related to capacity.

32. From discussions among the secretariats of the organizations, it was noted that, while IPPC covers all invasive alien species that are directly or indirectly injurious to both wild, unmanaged and cultivated plants, limitations on implementation at national level often mean that actual coverage of these IAS can be inconsistent. For example, regarding forests, invasive alien species that are animals and which affect trees in forests are covered by IPPC (ISPM 5, 2003). Nevertheless, the extent to which national plant protection organizations (NPPOs) under the IPPC actually deal with such invasive alien species varies, because NPPOs are often responsible for agriculture-issues while forest-issues are handled by separate agencies. In this regard, the IPPC Secretariat and governing body encourage increased national-level coordination to ensure that such invasive alien species are addressed.

33. The IPPC secretariat and the Secretariat of the Convention on Biological Diversity signed a memorandum of cooperation in February 2004. Through their joint work programme, the two secretariats agreed to promote synergies, avoid duplication, and encourage collaboration between ministries of agriculture and environment at the national level through joint communication to the convention's respective focal points. The implementation of the joint work programme between the Convention on Biological Diversity and IPPC, however, depends on availability of resources. The existing SPS-recognized international standard setting bodies could also consider developing a common approach to generic pest risk analysis (as part of the common effort to address biodiversity risks by FAO and the standard-setting bodies).

34. The Ad Hoc Technical Expert Group on Gaps and Inconsistencies in the International Regulatory Framework in Relation to Invasive Alien Species under the Convention on Biological Diversity identified conveyances including vessels, machinery, and waste materials as a specific gap in the international regulatory framework. These are addressed by IPPC in Article 1.4, which states:

“Where appropriate, the provisions of this Convention may be deemed by contracting parties to extend, in addition to plants and plant products, to storage places, packaging, conveyances, containers, soil and any other organism, object or material capable of harbouring or spreading plant pests, particularly where international transportation is involved”.

35. Following discussions of the above topics in several international forums, and proposals of a number of Contracting Parties to the IPPC, the Standards Committee of IPPC has recommended that the Commission on Phytosanitary Measures (CPM), at its next meeting in April 2008, consider adding topics for new standards to the IPPC standard setting work programme on the following:

- (a) Minimizing pest movement by sea containers and conveyances;
- (b) Minimizing pest movement by air containers and aircrafts; and
- (c) Handling and disposal of international garbage.

B. *Relevant standards and activities of organizations other than the SPS Agreement recognized organizations*

36. Beyond the standards developed by the bodies recognized by the SPS Agreement, relevant standards have been developed under the auspices of other intergovernmental bodies. These include the Guiding Principles for the Prevention, Introduction and Mitigation of Impacts of Alien Species that threaten Ecosystems, Habitats or Species developed under the Convention on Biological Diversity (decision VI/23*, annex) and the technical guidance on the precautionary approach to capture fisheries and species introductions developed by the FAO secretariat to assist those concerned with the implementation of the Code of Conduct for Responsible Fisheries. However, these bodies are not currently recognized under the SPS Agreement, and the FAO Technical Guidance has been developed without formal adoption by an intergovernmental body. Further voluntary guidance has been developed by other international organizations.

1. Convention on Biological Diversity

37. Parties to the Convention are required, as far as possible and as appropriate, to prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species (Article 8 (h)). In decision VI/23*, the Conference of the Parties adopted Guiding Principles for the Prevention, Introduction and Mitigation of Impacts of Alien Species that threaten Ecosystems, Habitats or Species. These apply to all invasive alien species and therefore could be used by countries to fill any gaps in the set of standards developed through the organizations recognized by the SPS Agreement. However, as noted above, the SPS Committee had not considered any potential gap in the mandates of the three standard-setting organizations referenced in the SPS Agreement with regard to invasive alien species.

2. The Food and Agriculture Organization of the United Nations (FAO)

38. In its written response to the Executive Secretary, FAO highlighted its activities in relation to invasive alien species, through its fisheries, forestry and agriculture departments, and pointed out that guidance and other documents relevant to invasive alien species have been produced. FAO Fisheries and Aquaculture Department provided an additional response with regards to an earlier draft of this document where they outlined activities of the Committee on Fisheries (COFI) and clarified the FAO mandate and the Code of Conduct for Responsible Fisheries. The Code deals with unintentional and intentional introductions of species related to fisheries and aquaculture and is voluntary. It includes consultation with neighbouring countries when exotic stocks are introduced into trans-boundary ecosystems and minimization of adverse genetic and disease effects on wild stocks. FAO has responsibility to promote and coordinate its implementation but the responsibility for the implementation of the Code rests with the countries. The role of FAO is to provide technical support to national initiatives and play a catalytic role at all levels in facilitating implementation. To assist those concerned with the implementation of the Code of Conduct for Responsible Fisheries, technical guidelines are being developed by the FAO Fisheries and Aquaculture Department. However, as noted above, this guidance has not been generated by the intergovernmental body itself, and is not recognized by the WTO SPS Committee.

* One representative entered a formal objection during the process leading to the adoption of decision VI/23 and underlined that he did not believe that the Conference of the Parties could legitimately adopt a motion or a text with a formal objection in place. A few representatives expressed reservations regarding the procedure leading to the adoption of this decision (see UNEP/CBD/COP/6/20, paras. 294-324)

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39. To assist further implementation of the Code of Conduct for Responsible Fisheries, FAO has compiled the Database on Introductions of Aquatic Species (DIAS) which includes over 5,000 records of introductions of several hundred species. Regarding COFI, FAO reports that committee members expressed interest in continuing efforts to manage the use of alien species in aquaculture in a safe, but flexible way, at the third session of the sub-committee on aquaculture in New Delhi, India, in September 2006.

3. *World Conservation Union (IUCN)*

40. The IUCN Guidelines for the Prevention of Biodiversity Loss Caused by Alien Invasive Species, (2000) are a voluntary instrument that addresses the gaps in IAS regulation that are not recognized by the IPPC, OIE and SPS Agreement. These Guidelines cover all wildlife threatened by IAS, whether animal plant, terrestrial or marine and are designed to help implement article 8 (h) of the Convention on Biological Diversity, and raise awareness and understanding of impacts of IAS to reduce the negative effects of alien invasive species. Through its Invasive Species Specialist Group, IUCN has developed a Global Register on Invasive Species (GRIS) database as a tool to aid national and international decision making.

4. *International Civil Aviation Organization (ICAO)*

41. Following an invitation of the thirty-fifth session of the ICAO Assembly, and the submission of “best practices” by 35 States, ICAO plans to prepare draft guidelines for preventing the transport and introduction of invasive alien species by air.

C. *General considerations*

42. The four secretariats, in further exploring the gap identified by the Ad Hoc Technical Expert Group and in the decision of the eighth meeting of the Conference of the Parties, felt that the gap is broad in scope and therefore that it would be difficult and unrealistic for any one of the existing standard-setting organizations or of other bodies or organizations to meaningfully address it in entirety. The reasons for this are as follows:

(a) Several existing bodies have mandates and expertise for particular types of invasive alien species or particular pathways, so it would be most efficient to address particular aspects in particular fora;

(b) The manner in which particular groups of invasive alien species are most efficiently addressed varies. In some cases, it is a species itself that is addressed, while in other cases it is the pathway that is most easily addressed (in the latter case, several species can be targeted at once);

(c) Some invasion pathways are associated with trade, while others are not directly associated with trade. Those that are not associated with trade may not be relevant for organizations and bodies that deal primarily with trade-related issues.

43. Consequently, the most practical way to address the gap identified would be to identify particular problems (i.e., particular groups of invasive alien species or particular pathways) and to identify the relevant organization to address that particular issue. The options identified by the Ad Hoc Technical Expert Group are not, therefore, mutually exclusive.

44. The ability of any body or organization to address particular issues will depend on the nature of the issue in relation to its mandate and expertise. Issues that clearly fall within the existing mandate of an organization could presumably be addressed, subject to resources. Where issues are peripherally relevant

to an organization's mandate, that organization might consider clarifying its mandate in order that it might develop standards in the area. In addition, if an issue cannot be dealt with formally (e.g., through development of standards) without a change in mandate, it might nevertheless be dealt with informally without a change in mandate (e.g., through secretariat activities and collaboration, and possibly through development of voluntary guidance documents). Finally, there are issues that are not only outside the mandate of an organization but so far beyond the mandate and expertise that is not realistic to expect the issue to be covered by that organization.

45. It should be stressed that for relevant organizations to take on any work related to this gap, it will be necessary for some national Governments to actively pursue the matter within respective committees as it is difficult for member-driven organizations to pursue initiatives unless there is clearly support and interest from a number of national Governments.

V. CONCLUSIONS

46. While the scope of the SPS Agreement is understood to be broad, the SPS Committee has not formally discussed invasive alien species, nor has it considered any potential gap in the mandates of the three standard-setting organizations or the need to recognize any standards developed by other relevant international organizations. However, informally many delegates to the Committee have agreed that international standards to address invasive alien species that are not pests of plants could be desirable.

47. A possible expansion of the activities or mandate of the OIE has been suggested informally by some delegates to the SPS Committee.

48. The OIE could possibly address a wider range of diseases that are themselves invasive alien species. Such an expansion of diseases listed could be significant in addressing invasive alien species that are diseases of wild fauna and not diseases of man (zoonoses), of livestock, or of companion animals - and therefore not currently addressed. However, it should be noted that only a very limited number of these would be themselves animals).

49. Beyond diseases, OIE might conceivably address the invasiveness of terrestrial vertebrates (or some types of terrestrial vertebrates) in general, regardless of whether those vertebrates are affected by disease, building upon the work of the OIE expert working group on wildlife. However this would involve an expansion of the organization's mandate. Any expansion of OIE activities or mandate would be subject to a decision of the OIE International Committee. Further, it would not be appropriate to expand the issues addressed by OIE beyond the expertise and national responsibility of national delegates, who comprise for the most part, the chief veterinary officers of the members.

50. The risk assessment framework for pests of plants is broadly applicable to other invasive species. However, even if the procedures are technically appropriate for invasive species that are not pests of plants, they may not have the necessary legal status in that respect since application of the risk analysis frameworks are limited by the mandates of the organizations. Further, while the IPPC covers all invasive alien species that are directly or indirectly injurious to both wild, unmanaged and cultivated plants, limitations on implementation at national level often mean that actual coverage of these invasive alien species can be inconsistent.

51. Thus the following gaps are likely to remain even with a broad interpretation of pests of plants by IPPC and diseases of animals by OIE:

- (a) Conveyances as pathways for invasive alien animals;
- (b) Introduction of alien species in fisheries and aquaculture;

(c) Introduction of alien species as pets, including aquarium species, such as fish, reptiles, or insects, and as live bait and live food.

52. Thus the gaps could be addressed in a two-stage approach, firstly through IPPC and OIE, and secondly by considering standards developed outside these two organizations.

53. Concerning the existing standard-setting organizations:

- (a) The IPPC could continue to seek to fulfil a broad interpretation of its mandate;
- (b) The OIE could be invited to consider the expansion of the list of diseases it addresses.

54. Considering standards developed outside these two organizations, the remaining gaps could be addressed by a combination of the following measures:

(a) The WTO SPS Committee could be invited to consider the issue of invasive alien species and consider recognizing additional standards set by other bodies such as the Guiding Principles adopted by the Convention on Biological Diversity, the Codes of Conduct and associated guidance developed by the FAO Committee on Fisheries

(b) The FAO Committee on Fisheries could be invited to formalize the technical guidance developed under the FAO Code of Conduct on Responsible Fisheries and the Code of Conduct for the Import and Release of Exotic Biological Control Agents and

(c) SBSTTA, or another relevant organization, could be invited to develop draft standards and/or identify best practices for addressing the risks associated with the introduction of alien species as pets, including aquarium species, such as fish, reptiles, or insects, and as live bait and live food. A first step in this regard would be the collation of existing information on best practices.
