

**REPLY TO THE STATEMENT BY COLOMBIA (G/SPS/GEN/475) AND
THE COMMENTS BY PAPUA NEW GUINEA (G/SPS/GEN/470)**

Concerning Notification G/SPS/N/DEU/9 (National Measures by Germany: Ordinance
Amending the Ordinance Laying Down Maximum Levels for
Mycotoxins in Foodstuffs and the Ordinance
of Dietetic Foodstuffs)

Communication from the European Communities

The following communication, received on 12 May 2004, is being circulated at the request of the delegation of the European Communities.

1. The Codex Alimentarius discusses maximum levels for Ochratoxin A in raw wheat, barley and rye and derived products. The Joint FAO/WHO Expert Committee on Food Additives (JECFA) carried out a risk assessment and found *inter alia* that efforts are needed to reduce contamination by Ochratoxin A by applying good agricultural, storage and processing practices in order to reduce human exposure to Ochratoxin A. The discussion was continued in the Codex Committee on Food Additives and Contaminants at Rotterdam in late March 2004.
2. The European Commission keeps close track of this work on the basis of the results of cooperation with member States in scientific research for food. The research conducted affords grounds for considering that cereals and derived products are the main contributors to human exposure to Ochratoxin A. Wine, coffee and beer have been identified as major contributors to such exposure.
3. Germany has set no maximum levels for Ochratoxin A in cereals and derived products because Commission Regulation (EC) No. 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs, as amended by Commission Regulation (EC) No. 472/2002 of 12 March 2002, lays down maximum limits at Community level, which precludes the setting of any different levels by member States.
4. The level of Ochratoxin A in beer is controlled indirectly by the limits set for barley, which is used to produce malt. The Commission is furthermore studying the possibility of setting maximum Ochratoxin A levels for other foodstuffs as well. Pending a decision by the Commission, the member States must refrain from adopting national provisions.
5. Germany was able to set maximum levels for Ochratoxin A in coffee because at the time when the German national measures were notified, the Commission was not in a position to propose maximum levels within the time-limits prescribed by European legislation. The matter is currently under study because as well as protecting public health, which is the prime objective, the

Commission's aim is to ensure the proper functioning of the internal market. The Commission intends to establish maximum limits for Ochratoxin A in roasted coffee, instant coffee, wine, and certain dried fruits and fruit juices, which will apply to all member States without distinction. The Commission will in due course notify these measures to the WTO for comment.

6. The methods of analysis and the results of the measures is information that the German government can send directly to the Colombian government.

7. Commission Directive 2002/26/EC of 13 March 2002 laying down the sampling methods and methods of analysis for the official control of levels of Ochratoxin A in foodstuffs establishes the reference methods of sampling and analysis for Ochratoxin A in foodstuffs. The Commission has not to date received from the German government any notification under the early warning system concerning the presence of Ochratoxin A in products originating in Colombia.
