

Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 15-16 SEPTEMBER 1998

Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures ("the Committee") held its twelfth meeting on 15-16 September 1998, under the chairmanship of Mr. Alejandro Thiermann (United States). The agenda proposed in WTO/AIR/906 was adopted with amendments.

2. Canada proposed that, in view of the informal consultations to be held by the Committee with a representative of the secretariat of the Convention on Biological Diversity (CBD), the representative of the CBD be invited on an ad hoc basis to attend the Committee formal meeting. However, certain Members, in particular the EC representative, noting that during its informal consultations the Committee had been unable to reach consensus on criteria for accepting requests for observership, indicated that he could not support the Canadian proposal.

1. Implementation of the Agreement

(a) Information from Members

(i) *European Communities – Recommendation on the evaluation of the epidemiological status of countries with respect to transmissible spongiform encephalopathies*

3. The representative of the European Communities stated that the objective of the EC Commission recommendation of 22 July 1998 was to provide the Commission with the information necessary to determine the TSE status of EC member States and eventually of trading partners. The EC representative noted that the final recommendation would be based on a list of the factors which contributed to the risk of occurrence and the risk of propagation in a geographical area as established by the Scientific Steering Committee. The type of information requested related to the following main areas: structure and dynamics of the cattle, sheep and goat populations; animal movements and trade; animal feed, meat and bone meal bans; specified bovine offal and specified risk material bans; surveillance of TSEs with particular reference to BSE and scrapie; rendering of waste and feed processing; and, BSE and scrapie related culling.

(ii) *Chile – Implementation activities*

4. The representative of Chile reported that since the last meeting of the Committee, a bilateral cooperation agreement had been reached between Servicio Agrícola y Ganadero (SAG) of Chile and APHIS of the United States in the form of a Memorandum of Understanding on Sanitary and Phytosanitary matters.

(b) Specific trade concerns

(i) *Brazil – Import prohibition on coconut palms and related products*

5. Pursuing a matter raised at the June 1998 meeting of the Committee, the representative of the Philippines, supported by Sri Lanka, raised concerns regarding Administrative Directive No. 70 (A.D. 70), approved by the Brazilian Ministry of Agriculture and Supply on 5 March 1998 in respect of Brazil's import prohibition on coconut palms and related products. The Philippines had also requested information on Brazil's risk assessment on coconut cadang-cadang and on desiccated coconut. According to the representative of the Philippines, in its reply dated 31 July 1998, Brazil had provided a copy of an unofficial translation of A.D. 70 but had not provided clear answers. Consequently, the Philippines reiterated its request for clarification on the following matters:

- list of products covered (by HS tariff headings) and list of countries affected;
- whether the measure was in line with existing international standards, guidelines and recommendations. If not, clarification was sought on the extent of the deviation from such standards;
- in case the measure was the result of Brazil's determination of its appropriate level of protection, whether the obligations and criteria contained in Article 5 had been taken into account, in particular those in Articles 5.1, 5.2 and 5.4;
- in relation to Article 5 as well as the transparency requirements of Annex B, could Brazil provide some information on the risk assessment conducted relevant to coconut cadang-cadang and to desiccated coconut;
- whether Brazil's analysis of "plague risk" referred to in A.D. 70 was based on any relevant international risk assessment method and whether Brazil considered that this method was consistent with Article 5;
- in light of Article 4, whether Brazil had taken into account the corresponding measures implemented in other countries to eradicate the plagues identified in A.D. 70.

6. The representative of Brazil repeated that A.D. 70 was introduced with the sole purpose of preventing the spread of quarantine pests. Brazil remained open to imports of coconut plants and related products from countries recognized by the relevant Brazilian authorities as being free from plagues, provided that shipments were accompanied by a phytosanitary certificate issued by the authorities of the exporting country. Brazil maintained that the measure was in full conformity with the SPS Agreement as well as with the revised text of the International Plant Protection Convention (IPPC) and was based on internationally recognized documents. If shipments of imported coconuts came from a region that was not recognized as being free from the microplasm meefolyellowing MLO of the viroid kadang kadang and from the weed strigger SPP, it was subjected to prior inspection. Based on existing scientific evidence, the Brazilian Ministry of Agriculture and Supply had extended the requirements to desiccated coconut as it had been proven to present a risk of transmission of these pests or exotic pathogens. Nonetheless, Brazil was ready to discuss with the Philippines, Sri Lanka or any other interested country, proposals of dates and methods for risk evaluation and recognition of pest-free areas.

(ii) *Turkey - Import ban on cattle and meat products (G/SPS/GEN/89)*

7. Both the United States and Hungary reverted to an issue concerning an import ban by Turkey on cattle and meat products, previously raised at the June 1998 meeting of the Committee. The United States noted that the Government of Turkey had extended for the eighth time its import ban of cattle and meat products. The United States questioned why Turkey had not notified its import ban to the WTO and why it had not officially published a regulatory rule. Moreover, the import ban applied to cattle and meat from all countries, including those free from Foot-and-Mouth Disease (FMD). The

United States had been free from FMD for nearly seventy years. The representative of Hungary stressed that for the last two years, Turkey had not issued any quality and health certificates required for import. Severe losses were being inflicted upon Hungary's traditional exports although Hungary was free from FMD and BSE, which were the reasons behind Turkey's import prohibition.

8. The representatives of the European Communities and Australia associated themselves with the concerns expressed. Australia requested clearer explanations as to the importation of meat products, especially from countries known to be free from FMD. The European Communities was free from FMD as well as rinderpest, a disease which had been cited at an earlier stage by Turkey as a reason for imposing the ban. The United States, Hungary, the European Communities and Australia urged Turkey to review its regulation and ensure its consistency with the WTO.

9. The representative of Turkey stressed that the policy in question was simply geared at preventing the spread of FMD in his country. The policies adopted regarding the importation of cattle and sheep had been dictated by the fact that Turkey, while no import restrictions existed, had experienced sporadic incidences of FMD (which had been regularly reported to the Office international des épizooties (OIE)), resulting in significant economic losses. In the past, Turkey's measures to eradicate FMD at the root had proven to be inadequate, as had Turkey's attempt to vaccinate imported cattle as some became infected before the completion of the vaccination programme. A rigorous nation-wide eradication programme had been in place over the last years and considerable progress had been made during the last two years in eradicating the disease. Numerous measures were being put in place to control animal movements within Turkey's borders, including a proposed modification of the Law on Animal Health which contained additional provisions on unauthorised internal movements of animals. The law would also raise the level of standards for animal markets and the applicable fines. The current measures were temporary and reviewed every three months on the basis of new information on the endemic animal diseases' situation. Turkey believed that its adoption and application of temporary measures with the objective of creating the necessary conditions for animal health within its borders was justified, particularly under Article 5.3. Nonetheless, Turkey was open to dialogue with its trading partners, in the aim of reaching a mutually agreeable solution.

10. In reply to the Australian inquiry regarding the importation of meat products, the representative of Turkey stated that the Turkish authorities had given a preliminary approval to 38 companies to import meat. More detailed responses to the questions and comments from Australia would have to be sought from the capital.

(iii) European Communities – Requirements on maximum aflatoxin levels and consequences for Bolivian chestnut exports

11. The representative of Bolivia informed the Committee in respect of the EC requirements on maximum aflatoxin levels and their consequences for Bolivian chestnut exports. The full text of the statement by Bolivia is contained in document G/SPS/GEN/93. In light of the arguments presented in its paper, Bolivia, supported by Brazil, Peru, India, Argentina, Canada, Mexico, Uruguay, Australia and Pakistan, requested the European Communities to provide the risk assessments on which it had based its measures. Bolivia stressed that the EC requirements not only departed from the Codex Alimentarius recommendations, but also had considerable social and economic impacts on the concerned countries. Bolivia stood ready to enter into bilateral discussions with the European Communities in order to find a mutually agreeable solution.

12. The representative of the United States stressed, as in the past, that setting maximum aflatoxin levels at such low levels would likely result in trade disruption while providing little additional protection for consumers. Nonetheless, there had been constructive dialogues with the European Communities, which had taken into account many of the comments made by producing countries in

revising drafts of the relevant regulations. The United States encouraged the European Communities to continue to take on board the recommendations contained in the FAO/WHO risk assessments establishing maximum levels for aflatoxin in consumer-ready products.

13. The representative of the Philippines, speaking on behalf of ASEAN countries, reiterated their concern about the EC regulation setting the maximum limit of aflatoxin M1 in milk at 0.05 parts per billion (ppb). The new limit for milk would require controlling aflatoxin B1 levels in feed stocks at extremely low levels, which would be very damaging to ASEAN and other developing countries' trade with the European Communities. The representative of the Philippines noted that in discussions of this matter in Codex, the European Communities had indicated that their present level of M1 in milk was achievable without changes to the present levels required for feed stocks.

14. The representative of the European Communities, referring to notification G/SPS/N/EEC/51 which contained the measures under discussion, noted that the deadline for comments had been extended to allow for sufficient discussion and comments from Members. The representative further noted the difficulty of comparing appropriate levels of protection linked to public health from one country to another. He reminded the Committee that in light of the extensive comments addressed to the European Communities during various Committee meetings to the effect that proposed requirements for MRLs and sampling methods for aflatoxin were too restrictive, as well as taking into account the deliberations of the Codex Committee on Food Additives and Contaminants, the European Communities had revised its proposal and increased the threshold from 10 ppb to 15 ppb. The proposed limits for dry fruits and nuts in raw form or after sorting had remained unchanged as the European Communities did not have any information on the effect of physical treatments on the final level of aflatoxins. However, the European Communities was ready to increase the proposed levels from 10 to 15 ppb. also for these products if new and conclusive information was provided. With regard to milk, the maximum limit of aflatoxin M1 in milk and milk products was in line with the standards currently under discussion in Codex Alimentarius. The EC representative expressed his view that the Committee had exhausted all possible timetables or normal procedures in discussing the EC proposal. He invited Members to submit to the European Communities any relevant technical information so that this could be taken into account when setting the MRL limit in the regulation.

(iv) Korea - Restrictions on imports of poultry

15. The representative of Thailand thanked Korea for providing her authorities with information concerning Korea's restriction on imports of poultry meat (G/SPS/N/KOR/44 refers). Thailand requested Korea to confirm that the Korean Food Code, previously issued by the Korean Food and Drug Agency, had been amended so that the criteria of zero tolerance for listeria would not apply to imported frozen chicken effective 16 June 1998. Furthermore, the representative of Thailand enquired as to whether a copy of the amended text could be provided by Korea.

16. The representative of Korea replied that the amendment to the Food Code was intended to improve food safety and harmonize current Korean regulations with international standards. Korea had taken into account Thailand's concerns and had decided to include only meat for direct consumption in the amended legislation. Meat for further processing and cooking were excluded and not subject to inspection under the criteria of zero tolerance for listeria. The representative of Korea stated that Korea would gladly provide a copy of the amended text, when available, through the appropriate channel, although it was the interpretation of the terms used in the document which mattered.

(v) Mexico - Import prohibition of Thai milled rice (G/SPS/GEN/82)

17. Further to the discussions which took place at earlier Committee meetings, Thailand recorded once again its disappointment in the lack of progress over the past four years with regard to the

Mexican import prohibition of Thai milled rice, despite extensive recourse to bilateral as well as multilateral channels of consultation.

18. The representative of Mexico informed the Committee that official contacts had recently been established between Thailand and Mexico in order to deal with the issue at hand. The last consultation had been held in June 1998. The representative of Mexico noted that the National Animal Health Commission had conducted a risk assessment of Thai milled rice and, in spite of several requests for information, Mexico was still awaiting information to be supplied by the Thai authorities. That information would enable Mexico to make a proper analysis of the risk of importing Thai milled rice and act accordingly. Prompted by Thailand, Mexico noted that the specify information requested had been provided to the Ambassador of Thailand in Mexico in Document 01379.

(vi) *South Africa – Ban on the import of meat on the bone*

19. The representative of the European Communities stated that on 10 February 1998, South Africa had notified an import restriction applied as of 18 April 1998 to the importation of chilled and frozen bone-in-beef from EC member States (G/SPS/N/ZAF/2). The EC representative questioned the justification for this measure, which appeared to be discriminatory. The full text of the EC statement is contained in document G/SPS/GEN/95.

20. The representative of South Africa replied that at the March 1998 meeting of the Committee, South Africa had explained the reasons for instituting the embargo on the import of de-boned beef from the European Communities and had then invited the European Communities to supply written comments to initiate bilateral discussions on the issue. However, such written comments had only recently been received. At the request of the European Communities, South Africa had supplied, in writing, an explanation of the notification in question, in March and July of 1998. Furthermore, South Africa had reiterated its invitation to the European Communities to submit evidence which would permit a re-evaluation of its decision, possibly on an individual EC member State basis. The representative of South Africa further explained that his country was free of scrapie and BSE, but still allowed the manufacturing of bone and carcass meal as feed supplement. Although this policy was under review, in accordance with the guidelines of the OIE, South Africa had to take precautions to prevent the introduction of possible infected material in the rendering process. Nonetheless, South Africa respected the provisions of Article 5.7, particularly the requirement that sanitary measures instituted on a precautionary basis should be reviewed in the light of additional information.

21. The EC delegation recognized that the European Communities had yet to provide a written reply to South Africa's request for information and indicated that it would follow the evolution of submissions made by some of its member States concerning their disease-free status. The EC representative expressed his satisfaction with South Africa's reassurance that the measures were not exclusively addressed to the European Communities, and he welcomed the invitation for a bilateral discussion of the question.

(vii) *France – Restrictions on imports of gelatin*

22. The representative of Brazil noted that this issue was being raised for the third time in the Committee. Despite Brazil's efforts and numerous bilateral talks, Brazil had not been able to reverse the French decision which imposed unjustifiable production methods on all gelatin exported to France. The representative of Brazil reiterated that this decision, when applied to countries free of BSE, as was the case of Brazil, lacked scientific evidence and was not in line with Articles 2.2 and 5.6 of the SPS Agreement. Furthermore, Brazil recalled that at its May 1998 meeting, the OIE had adopted a decision to the effect that trade in gelatin and collagen extracted from hides and skin should not be restricted as they did not transmit BSE. Commenting on a new directive that was issued on the matter by France, Brazil stated that the only significant changes made had been those concerning

specific heat treatment. Yet the Annex to the "Avis aux importateurs de gelatin" of 17 June 1998 still required the raw material to undergo a certain chemical treatment for a period of time that Brazil considered to be unjustifiably long.

23. The EC representative noted that the origin of the problem could be the fact that Brazil considered itself as free of BSE. While in the EC view no country could be designated as BSE-free as such, the European Communities was still interested in resolving all possible misunderstandings through further contacts. The EC representative observed that they had not previously been informed that the only precise problem of the Brazilian authorities was the timing requirement for the treatment of gelatin. The representative of Brazil concurred that there had obviously been some misunderstandings and that her authorities were pleased to see a willingness to resolve the issue.

(viii) Norway– Restrictions on imports of gelatin

24. The representative of Brazil reported that Brazilian exports of gelatin to Norway had been prohibited since 1991, supposedly due to the occurrence of FMD in her country. Since that time, bilateral contacts had not resulted in a lifting of the ban. In fact, Brazil had been told by Norwegian authorities at an OIE meeting in 1996 that as its production process guaranteed the elimination of the disease, Brazil could resume exports of gelatin to Norway. However the situation had in effect remained unchanged, and her authorities wished to know when its exports would be allowed to enter Norway.

25. The representative of Norway informed the Committee that the following conditions applied to the import of Brazilian gelatin into Norway:

- (i) raw materials had to come from slaughterhouses authorized for export in conformity with the rules stipulated by the European Communities;
- (ii) the production process had to include treatment at 140°C or equivalent heat treatment; and
- (iii) there should be no recontamination of the gelatin after production.

The representative of Norway stated that applications fulfilling these conditions would be accepted and that Norway looked forward to clarifying any outstanding questions bilaterally. The representative of Brazil noted that Brazil was able to meet the aforementioned import conditions and should thus be able to export gelatin to Norway.

(ix) Austria, Spain (European Communities), Slovenia and Chile – Import prohibitions on Swiss bovine semen

26. The representative of Switzerland stated that the import prohibitions on Swiss bovine semen maintained by Austria, Spain, Slovenia and Chile appeared to be in contradiction with a number of WTO obligations, *inter alia*, non-discrimination, risk assessment (in case of departure from international standards), notification and consultation obligations. Switzerland was awaiting replies from the countries concerned to its detailed questions or preferably, the immediate re-admission of imports from Switzerland.

27. The EC representative noted that its bilateral contacts with Switzerland had been useful. The basic issue dealt with the notification of some national emergency measures, taken by EC member States. The EC representative announced that in July 1998, the Council had modified the rules by which SPS notifications could be submitted in the case of national emergency measures. As regarded BSE, the Commission services were presently undertaking an inventory of all relevant national

measures in order to notify them to the SPS Committee. In addition, the European Communities would propose that EC member States harmonize their conditions for import from Switzerland, considering the present situation of Switzerland in relation to BSE and the recommendations formulated by the OIE in that field.

28. In a preliminary response, the representative of Chile noted that his country had submitted an emergency notification in 1996 (G/SPS/N/CHL/1), and another notification in August 1997. These identified measures taken on the basis of Article 5.7 of the SPS Agreement due to a lack of adequate scientific evidence. On the basis of OIE's International Animal Health Code and the chapter dealing with sanitary measures relating to BSE, Chile had authorized imports of bovine semen from France and had responded to a similar request from the United Kingdom in accordance with the OIE's general provisions. Switzerland, however, had not made an official request to Chile for the purpose of exporting bovine semen. The representative of Chile noted that his country would soon notify to the SPS Committee the changes in its requirements for the importation of bovine semen.

29. The representative of Switzerland expressed his pleasure at the development of a new notification system inside the European Communities. He also thanked Chile for the details concerning export application requirements.

(x) *Slovak Republic – Import ban on dairy products and the transit ban in relation to BSE*

30. The representative of Switzerland informed the Committee that Switzerland and the Slovak Republic had again held bilateral consultations regarding the import ban on dairy products and the transit ban on a large number of products in relation to BSE. The transit ban had been abolished at the end of June 1998, however, discussions on market access for dairy products continued.

(xi) *Slovak Republic - Ban on imports of apples, pears and quinces*

31. Pursuing a matter addressed during the March and June 1998 Committee meetings (G/SPS/GEN/79 refers), the representative of Hungary, joined by the European Communities, acknowledged the latest improvements made by the Slovak Republic in revising its regulation against the introduction of fire blight, a quarantine pest potentially affecting apples, pears and quinces (notified in G/SPS/N/SVK/8/Rev.1). However, a partial import ban was still applied, apparently without any scientific justification. Hungary noted that it had not yet received replies to written queries, relating to Article 5.8 of the SPS Agreement, put forward in December 1997. Furthermore, quoting excerpts from publications of the European and Mediterranean Plant Protection Organization (EPPO), Hungary requested precision as to when the Slovak Republic would withdraw the import ban on fruits and thus bring its measure into compliance with EPPO recommendations and with the SPS Agreement.

32. The representative of the Slovak Republic reiterated that this phytosanitary measure had been adopted, in accordance with Article 5.7, to protect the health of plants and to prevent the introduction of *Erwinia amylovora* into the Slovak Republic, which was free of this pest. In response to the comments received since G/SPS/N/SVK/8/Rev.1 was circulated, a second modification had been notified to the WTO (circulated as document G/SPS/N/SVK/11) and had entered into force on 1 June 1998.

33. The representative of the Slovak Republic denied that its phytosanitary measure was a "ban on imports" since, during the first eight months of 1998, the total imports of apples, pears and quinces into the Slovak Republic reached the level of 18,700 tonnes. These imports came from seventeen countries, Antigua and Barbados, Argentina, Austria, Belgium, Canada, Chile, the Czech Republic, Spain, France, Germany, Italy, Macedonia, the Netherlands, Slovenia, Holland and South Africa. All these exporting countries were thus able to fulfil the phytosanitary requirements and did not

experience market access impediments. The Slovak Republic was currently engaged in an intensive exchange of information with countries applying similar phytosanitary requirements, and was ready to continue discussions in good faith to find an acceptable solution.

34. The representative of Hungary stated that despite the Slovak Republic's answers, Hungary's serious concern regarding the measure had not been dispelled. There were systemic implications in maintaining an SPS measure without scientific justification, setting a dangerous precedent for the operation of the SPS Agreement.

(c) Consideration of specific notifications received

(i) *European Communities – Notification (G/SPS/N/EEC/58) on establishments operating in the animal feed sector*

35. The representative of the United States reverted¹ to an issue related to the EC notification concerning conditions and arrangements for approving and registering establishments and intermediaries operating in the animal feed sector (G/SPS/N/EEC/58) and requested further clarification on the transitional rules. The United States was encouraged by the European Communities' willingness to continue to consult on this draft directive with the objective of implementing it in a way that led to safeguarding public and animal health while minimizing disruptions to trade.

36. The EC representative reminded the Committee that this directive was an instrument for harmonization of the conditions and modalities for import into the European Communities. It dealt with lists of additives for mixtures and compound feedstuffs containing raw materials referred to in Directive 74/63EC, such as lead and cadmium. The system was similar to the regime already in place in the veterinary field, but was more flexible in that on-the-spot inspections in third countries were optional. The EC representative assured the United States that prompt answers would be provided to all questions raised.

(ii) *European Communities – Notification (G/SPS/N/EEC/61) EC measures on food treated with ionizing irradiation*

37. The representative of the United States sought clarification on the status of the measure related to food and food ingredients treated with ionizing radiation. The US representative considered that the Directive was a positive step toward recognizing the role that this technology could play in ensuring the wholesomeness and safety of food. The United States was in fact taking similar steps. Official comments had been sent to the European Communities, outlining specific points. However, the United States wished to emphasize that the Annex of the Directive should be expanded to cover other food products such as pork, beef, poultry, fruits and vegetables. The Directive indicated that irradiated foods from EC-approved facilities could be imported, and the United States requested further explanation on how this approval process worked.

38. The EC representative thanked the US delegation for its positive comments. He was aware of the limited field of application of the Directive and would forward the suggestions of the United States to the competent services of the Community.

(iii) *Switzerland – Notification (G/SPS/N/CHE/14) on import requirements on meat*

39. The US representative, supported by Australia, expressed serious concerns regarding the proposed Swiss regulation regarding imports under the Swiss tariff rate quota. The restrictions on

¹ G/SPS/GEN/88

meat from animals treated with hormones, antibiotics and similar products were not, in the US view, based on science or risk assessment. Furthermore, the different treatment of products imported under the tariff rate quota, as compared to products imported outside of the tariff rate quota, called into question the validity of the alleged public health objective behind the proposed regulation. The United States indicated that it was preparing formal comments on the proposed Swiss regulation and encouraged other Members to carefully consider the implications of the notified measure.

40. The representative of Canada noted that the purpose of the measure was for disclosure to consumers, yet the actual measure did not make it clear if labelling was carried through to the retail level. In respect of the certificate, the measure also required that the place of production and the "nom du producteur" be included on the certificate; the representative of Canada wondered whether this referred to the grower or the processor.

41. The representative of Switzerland stated that while he could not respond immediately to the questions by Canada and Australia, thirty days remained in the comment period and all comments made would be taken into account when drafting the final proposition. The representative of Switzerland added that the correct date of entry into force was not 16 October 1998, as erroneously mentioned on the notification, but 1 January 1999.

(iv) *Australia – Notification (G/SPS/N/AUS/72) on quarantine requirements for chicken meat*

42. The representative of Thailand expressed concern regarding Australia's requirement for the importation of cooked chicken meat notified in G/SPS/N/AUS/72. Thailand believed the requirement was in excess of what was needed for the purpose of the protection of human or animal life or health. Furthermore, it was not viable for commercial manufacturing, increased production costs for producers and adversely affected the competitiveness of foreign products. The full text of the statement by Thailand is contained in document G/SPS/GEN/90. Thailand requested Australia to adhere to the principles of the SPS Agreement.

43. The EC representative stated that Australia's recommended proposal of particular temperature and time requirements created an extreme and unnecessary barrier to trade. The full text of the statement by the European Communities is contained in document G/SPS/GEN/96. Furthermore, the EC representative indicated that a complete list of relevant questions would be provided to Australia with the hope of receiving precise and prompt answers.

44. The representative of the OIE specified that OIE's purpose was primarily to define standards reflecting currently available scientific information. If a country or the SPS Committee itself requested an OIE intervention, this would have to be communicated to the OIE. Countries could also, in extreme cases, solicit the arbitration of the OIE, as was specified in the International Animal Health Code.

45. As a preliminary response, the representative of Australia stated that the import requirements were based on broad scientific principles and on scientific data. The Australian Quarantine and Inspection Service (AQIS) had based the final heating requirements on the results of research conducted at the Central Veterinary Laboratory, Weybridge (United Kingdom) on the inactivation of infectious bursal disease virus (IBDV) strain CS88, a highly virulent strain exotic to Australia. The CS88 strain was more typical of the strains currently presenting a quarantine threat to Australia and the muscle/fat/skin mixture was more representative of finished chicken meat products which would be exported to Australia than the materials used in the research referred to above. Extensive consultations had taken place with Thai and other quarantine authorities to discuss the issue and Australia remained ready to provide any further information requested. Australia was considering whether additional scientific research could usefully be conducted to enhance scientific understanding and methods of inactivation of various poultry pathogens.

(v) *Poland – Notifications (G/SPS/N/POL/4, 13 and 14) on veterinary measures and measures on animal products*

46. The representative of Switzerland reported on an informal consultations with Poland regarding border measures in relation to BSE affecting Swiss exports. These border measures mainly consisted of a stricter treatment applied to countries with a higher incidence of BSE than those of low incidence. Switzerland was concerned by this departure from OIE recommendations, which *inter alia*, took into account the differences in surveillance and prevention systems applied in different countries. Consultations were ongoing and Switzerland hoped to find a solution to the problem.

47. The EC representative indicated that this measure resulted in significant import restrictions on cattle and bovine products. He observed that the import restrictions did not recognize differences in the TSE status of exporting countries. The incidence in the Republic of Ireland had consistently been lower and the number of BSE cases in 1998 showed an important decline. Ireland had taken all the measures recommended by international standards; a feed ban had been introduced in 1990. As regarded the United Kingdom, the EC representative stressed that even for products originating in the highest risk category, imports should be accepted from herds with no BSE history. Hence, both the import ban against Ireland and in part against the United Kingdom did not seem compatible with international obligations under the SPS Agreement.

48. The representative of Poland explained that the measure had been taken in relation to the BSE situation in the concerned countries. It was fully justified by the serious nature of the problem and was in accordance with WTO rules. Nonetheless, bilateral discussions were ongoing with the United Kingdom, Ireland and Switzerland. The BSE situation was under permanent surveillance and all results would be taken into account during the year-end domestic review of Poland's regulations.

(vi) *European Communities – Notification (G/SPS/N/EEC/62) of emergency measures on citrus pulp*

49. The representative of Brazil stated that the EC notification of emergency measures for citrus pulp (G/SPS/N/EEC/62) mentioned very high levels of dioxins found in citrus pulp pellets from Brazil. Brazil pointed out that this accident had happened in the past and that the problem had been immediately dealt with. The Brazilian authorities were maintaining bilateral talks with the European Communities on the subject.

50. The EC representative explained that "the accident" dealt with 90,000 tonnes of contaminated citrus pulp pellets destined for animal feed. The competent EC authorities, after detailed and scientifically based discussions which included contributions from Brazil's private sector, had decided that the lack of information on the origin of the contamination, the amount of stocks involved and the lack of a solution, justified the emergency measure. The EC representative hoped that the ongoing contacts with the Brazilian authorities would result in a solution before the end of the year.

(d) Any other matters related to the operation of transparency provisions

51. The Chairman indicated that the most recent list of Enquiry Points was circulated as G/SPS/ENQ/7. The latest list of National Notification Authorities was contained in document G/SPS/GEN/91. In addition, G/SPS/GEN/27/Rev.3 indicated which Members had identified their Enquiry Points and/or National Notification Authorities. Notifications received since the June 1998 meeting of the Committee were listed in G/SPS/GEN/87.

(i) *European Communities - Modification of the procedure of notification of EC Member States' national emergency measures*

52. The EC representative stated that, in light of the concern and interest expressed in previous meetings of the SPS Committee, and with a view to increasing transparency, the European Communities had modified some of its internal arrangements regarding the notification of SPS emergency measures taken by member States as of July 1998. EC member States' notifications of emergency measures would now be provided to the WTO Secretariat as soon as the measure reached the Commission. Canada and Argentina welcomed the efforts made by the European Communities to amend its system of notification of member States' measures and welcomed any further efforts in that direction.

53. The Secretariat reminded Members that notifications of SPS measures should be submitted directly to the Central Registry of Notifications to avoid processing delays. The Secretariat also encouraged Members to ensure a close coordination between their notification authorities on TBT matters and those under the SPS Agreement to ensure that measures were notified under the appropriate agreement.

2. Monitoring the Use of International Standards

54. The Chairman recalled that the Committee adopted a provisional procedure to monitor the use of international standards in October 1997 (G/SPS/11). According to this procedure, Members were invited to submit, in advance of regular meetings, examples of what they considered to be problems with a significant trade impact which they believed related to the use or non-use of relevant international standards, guidelines or recommendations. The Chairman reminded the Committee that at the June 1998 meeting of the Committee, Members had discussed a paper submitted by the United States (document G/SPS/W/87 and Corr.1).

55. The representative of Canada identified three areas where trade in meat products had been affected and where Canada thought that further work or consideration by the relevant standard-setting bodies could be helpful. He welcomed the opportunity provided by the procedure developed under Article 3.5 to ask that those three areas be submitted or be put on the provisional list to be submitted to the standard-setting bodies (G/SPS/W/89, refers).

56. The EC representative, while welcoming the document presented by Canada, questioned whether it was feasible or appropriate to ask Codex to develop standards for pathogens in raw meat. The question raised by Canada had already been addressed by Codex last year and was also on the agenda of an upcoming meeting on 26-30 October 1998. Furthermore, FAO and WHO were apparently considering the creation of a joint expert committee to deal with those matters. The European Communities felt that it would be more appropriate to examine the concept of level of protection rather than that of standards.

57. The United States stated its appreciation of the suggestions brought forward by Canada and asked for an opportunity to discuss those specific suggestions at the next meeting of the Committee.

3. Consistency

58. The Chairman reminded the Committee that at its June 1998 meeting, the Secretariat had been requested to prepare a non-paper bringing together elements and proposals put forward by various Members with respect to the draft guidelines to further the implementation of Article 5.5 of the SPS Agreement. The paper had been distributed to Members on 19 August 1998 and had been the subject of discussions at an informal meeting of 15 September 1998. The Chairman reported that thanks to Members' contributions and spirit of cooperation, good progress had been made in the informal discussions. Members were reminded that they had until 8 October to submit any additional comments or recommendations on this topic so that the Secretariat could prepare a new document for distribution to Members by 20 October, in preparation for further informal discussions in November.

4. Review of the SPS Agreement

59. The Chairman recalled that at the October 1997 meeting, the Committee had agreed on a procedure to conduct the review of the operation and implementation of the SPS Agreement provided for in Article 12.7 (G/SPS/10). The implementation of the transparency provisions, the notification process, the special needs of developing countries, and technical assistance and cooperation had been discussed in June 1998 and again at an informal meeting on 14 September 1998 on the basis of a number of background papers provided by Members. Members had also been invited to submit specific papers on the adaptation of SPS measures to regional conditions, harmonization and equivalence and to identify other issues of interest, by the end of August 1998. Informal papers had been submitted on the recognition of regional conditions by the United States, on harmonization by India (G/SPS/NGEN/94) and on considerations relating to the review of the Agreement by Mexico. The Secretariat had prepared a synoptic table of the proposals made to date with respect to the transparency and notification provisions, the special needs of developing countries and technical assistance, which had also been discussed at the informal meeting of 14 September 1998. The Chairman reported that considerable progress had been made in narrowing down differences and developing common language. The informal consultations would continue upon completion of the formal meeting.

60. The representative of Mexico drew attention to his country's submission on harmonization, equivalence and issues of recognition of disease-free areas. Mexico particularly emphasized the importance of continuing to review the issue of harmonization. On the question of equivalence, Mexico proposed the full application of Article 4.2 of the SPS Agreement so that importing countries accepted equivalent measures and facilitated trade. Mexico stated that despite the existence of Article 6 of the SPS Agreement, there were still some countries which resisted the recognition of disease-free zones or areas where disease prevalence was low. Mexico had reported on its experience in bilateral negotiations to recognize disease-free areas and hoped that some of these elements would be included in the report resulting from the review exercise.

61. The representative of Australia, joined by Argentina, New Zealand, Mexico and South Africa, noted that very good progress had been made in the informal discussions and looked forward to their continuation. However, in Australia's view it was important to finalize the review so as to report on how Members were getting on under the SPS Agreement. Secondly, Australia noted that in the review discussions so far the focus had been on those matters where Members suspected implementation problems rather than on the success of the Agreement in creating a new framework for international trading relationships where SPS measures were relevant. It was, in Australia's view important for the report of the review to reflect the fact that in many Members' experience the Agreement had already proved to be a major force for good in trading relations. It identified for the relevant authorities within Member governments the disciplines within which they operated, as well as their rights in the application of SPS measures.

62. The EC representative recalled that the European Communities had not agreed with the establishment of a deadline for conclusion of the review process (see footnote to G/SPS/10). The European Communities would make a positive, constructive and decisive contribution to the review procedure so that it could be concluded. However, the European Communities could not agree to a final date beyond which there would be no further discussion; there needed to be room for further input and possible changes in opinion.

63. The representative of Canada, joined by the United States, suggested that the Committee should seek to provide a "snapshot" report on implementation of the Agreement at the end of 1998. The report could identify areas where Members wished to see more work done. The report should also stress the benefits that the Agreement had on freeing trade.

64. The EC representative noted that the text of the Agreement did not require ending review at any particular moment, and the European Communities did not want a final report on matters that had not been fully discussed. The EC delegate liked the suggestion of the report as a "snapshot" of the situation, and stressed that the European Communities would contribute to a report, provided it fully and faithfully reflected the discussions held in the informal Committee.

5. Technical assistance and cooperation

65. The Secretariat reported on technical assistance activities undertaken since the June 1998 meeting. The Secretariat had organized a regional seminar in Manila from 30 June -1 July 1998, in cooperation with the Government of the Philippines, USDA, Codex, OIE and IPPC. In addition to an overview of the WTO in general, its dispute settlement procedures, and a detailed presentation of the SPS Agreement, the scope of the seminar also included a special session on risk assessment and equivalence thanks to the participation of Dr. Peter O'Hara from New Zealand. A third session, organized in conjunction with the USDA/FAS, had consisted of a two-day workshop on transparency and notification procedures during which the role and functioning of national Enquiry Points had been presented. Twelve countries participated in the seminar; some had a high level of understanding of the SPS Agreement and its implementation while others were still at a very early stage of implementing their obligations under the SPS Agreement. A number of participants claimed difficulties relating to the utilisation of international standards, which they considered were often too demanding. Risk assessment also presented problems. The lack of coordination on a national level between relevant services clearly affected the way the Agreement was implemented by some of the countries, many of which did not appear to be familiar with document G/SPS/7. The Secretariat felt that these seminars were useful but there needed to be some follow-up, possibly by developing a evaluative questionnaire.

66. The representative of the Philippines expressed gratitude to the WTO Secretariat, the US Government, Codex, OIE and IPPC who had made possible the regional seminar in Manila. The seminar, and in particular, the workshop on SPS Enquiry Points, had been extremely beneficial in enhancing participants' understanding of the SPS Agreement and its implications. The Philippines also thanked New Zealand for Dr. O'Hara's valuable briefing on risk assessment and equivalence. Developing countries needed a greater understanding of such issues in order to fully comprehend and implement the SPS Agreement. The inclusion of these issues in future workshops would be appreciated.

67. The representative of the World Health Organization informed the Committee that Dr. Brundtland, former Prime Minister of Norway, had taken office as Director General of the WHO on 21 July 1998. Globalization of trade and its impact on health had been identified as a new priority area. WHO's technical programmes responsible for chemical safety, nutrition and other food safety aspects had been joined in one structural entity. The WHO believed that this reorganization would strengthen its capacity to meet the needs of its Member States with regard to technical assistance in the field of food safety.

68. The representative of the FAO International Plant Protection Convention (IPPC) reported that FAO and a new Swiss Agency for Trade and Information (AITIC) were conducting a two-day workshop on 22-23 September 1998 in Geneva with the participation of both the IPPC and Codex. The objective was to help less advanced countries to understand the Uruguay Round Agreements and to familiarize themselves with the resources available at the FAO, particularly in preparing for the future round of negotiations. Technical assistance and cooperation by the IPPC related primarily to participation in workshops, seminars, meetings and the provision of general information. Moreover, there were numerous projects facilitated through FAO's technical cooperation programmes devoted to building infrastructure. The representative of the IPPC noted that governments could consider the

IPPC for the coordination or delivery of technical assistance or cooperation that might be made available directly from Member to Member as indicated in Articles 9 and 10 of the Agreement.

69. The representative of the OIE indicated that a seminar had been held in July in Lithuania on risk assessment in the animal health area for Eastern European countries, with the cooperation of OIE and Switzerland. Another seminar was scheduled in early November at the behest of the FAO, which would target Middle Eastern countries and deal with FMD, rinderpest, the juris valid pest and brucellosis. Another seminar would be organized for French-speaking African countries also in November on epidermalogical surveillance of animal diseases, with the financial help of the French cooperation agency and hosted by the Senegalese Government.

70. The representative of Codex announced that Codex had produced a new document for general distribution on the Hazard Analysis Critical Control Point (HACCP) process for food safety using a harmonized approach. The document also encouraged the use of the general principles on hygiene as a prerequisite to the Codex HACCP approach. The representative of Codex recommended that the document, which would be on the FAO Internet home page, be used as part of training programmes. The representative of Codex also reported that the report of the expert consultation on risk communications, held in February 1998, had now been finalized and would shortly be put on the Internet. The report described experts' advice on how to address risk communication in the risk analysis programme.

6. Matters of interest arising from the work of observer organizations

(a) OIE

71. The representative of the OIE informed the Committee that a number of expert meetings had been held focussing especially on BSE with a view to further developing the contents of the pertinent chapter in the International Animal Health Code. An *ad hoc* group had been convened to consider updating the chapter on sheep fever, and the texts of both groups would shortly be submitted to Member countries for comment. In addition, a procedure had been examined which would make it possible to declare countries free from BSE in accordance with a resolution that had been adopted last year. Also, a study had started in conjunction with an international NGO on the problems posed by the inter-regional transportation of wild animals. Lastly, the OIE Standards Commission had considered a new definition of Newcastle disease which should make it possible to specify appropriate international constraints on the marketing of poultry and poultry meat.

(b) IPPC

72. The representative of the IPPC reminded the Committee that the first meeting of the Interim Commission on Phytosanitary Measures would take place in Rome on 3-6 November 1998. In addition, he noted several upcoming meetings: a working group meeting on regulated non-quarantine pests in Asuncion, Paraguay, during the first week of October, and the Tenth Technical Consultation of Regional Plant Protection Organizations on 9-10 November in Rome. He indicated that key documents sent to governments in 1998 were available at the IPPC Secretariat.

(c) Codex

73. The representative of Codex reported on the thirteenth Session of the Codex General Principles Committee (CCGP) held on 7-11 September 1998, in Paris. One of the key issues was the area of risk analysis in respect of which the CCGP had redrafted some definitions. The CCGP also considered possible changes to the decision-making procedures of Codex, and will revert to this issue at its meeting in June 1999. On special treatment for developing countries, the CCGP had stressed the importance of not differentiating standards and compromising consumer safety aspects in the

application of any special or differential treatment to developing countries. Regarding the extent to which factors other than science should be taken into consideration in the development of standards, the CCGP reaffirmed the primary role of science in health-related decisions.

(d) WHO

74. The representative of the WHO stated that previous informal and formal meetings of the SPS Committee had proven to be helpful in the revision of the IHR and the WHO would try to make the IHR more relevant to Members' needs as regarded public health and trade issues. The WHO intended to illustrate the differences between the public health and trade roles of the Codex and the proposed role and obligations of the IHR for WHO Members, in a document to be distributed to both WTO and WHO Members. The WHO representative reiterated that the IHR revision process provided an opportunity to try and minimize any conflicting regulatory or operational requirements on Members of both the WTO and WHO and hence Members' input was critical to the success of the process. In accordance with the suggestion made by Thailand at the last Committee meeting, IHR health/trade briefings had been held in Singapore, the Philippines, Thailand and Vietnam. The briefings had been well attended, and the insight provided by the national governments would be included in the revision. Other briefings were planned for 1999.

7. Observers

75. The Chairman informed the Committee that, as requested at the June 1998 meeting, the Secretariat had contacted those intergovernmental organizations which had requested observer status in the Committee. Responses from the following organizations had been circulated to Members in August 1998: the Office international de la vigne et du vin (OIV), the European Free Trade Association (EFTA), the Latin American Economic System (SELA), the European and Mediterranean Plant Protection Organization (EPPO) and the Inter-American Institute for Cooperation on Agriculture (IICA). The OECD had indicated that it would provide information at a later date. The International Consultative Group on Food Irradiation was not pursuing its request for observer status at this time.

76. The International Seed Federation and the International Meat Secretariat had been informed that, given the decision of the General Council regarding non-governmental organizations, the SPS Committee could not at this time agree to grant them observer status.

77. The Chairman informed the Committee that informal consultations had been held prior to the formal Committee meeting to consider criteria that might help the Committee reach decisions on requests for observer status. As no consensus had been reached, similar informal consultations would be held prior to the November meeting of the Committee.

8. Other business

(a) Negotiating Session of the UN Biosafety Protocol

78. The Chairman reminded the Committee that, as agreed at the June 1998 meeting, an informal session with the representative of the Secretariat of the Convention on Biological Diversity (CBD) was to be held immediately following the formal meeting of the Committee to allow Members to pose questions. The questions that had been received in advance from Members had been compiled by the Secretariat and circulated on 4 September 1998, and had also been forwarded to the CBD Secretariat.

79. The Secretariat informed the Committee that it had attended the second week of the negotiating session on the UN Biosafety Protocol. Areas of possible conflict between the Biosafety Protocol and the SPS Agreement were well summarized in the questions forwarded by WTO

Members to the CBD Secretariat. A good example was the text of the CBD itself, paragraph 8(g):2 as regarded risks to human health. There were also references to socio-economic considerations in many areas of the Convention. One of the most interesting mechanisms in the draft Protocol was the advanced informed agreement which provided for prior consent from importing to exporting countries before any exportation of living genetically modified organisms took place. As to the directly trade-related articles, there was no agreement between the negotiators in respect of the inclusion of such provisions, nor was there agreement in respect of the content of these should they be included. The next and final round of negotiations was scheduled to take place in Colombia in February 1999.

80. The representative of Australia noted that the Biosafety Protocol should effectively address risks to biological diversity without inappropriately restricting trade in living genetically modified organisms. The Protocol should not conflict with nor affect in any way existing rights and obligations under WTO agreements, particularly the SPS Agreement.

(b) Czech Republic – prohibition of imports of poultry meat from Thailand (G/SPS/N/CZE/16)

81. The representative of Thailand indicated that the Czech Republic had, since June 1998, prohibited shipments of poultry meat from Thailand on the grounds that arsenic acid was found in levels higher than the limits acceptable to the Czech Republic. This decision resulted in an immediate and costly import embargo on imports of poultry meat from Thailand. Thailand sought clarification and confirmation from the Czech Republic as to the non-discriminatory nature of this decision. In Thailand's view, the maximum limit of arsenic acid at the level of 0.1 parts per million (ppm) was too restrictive to trade and was not scientifically justified in view of Article 3.3 of the SPS Agreement. Bilateral consultations and collaboration between the regulatory authorities of the two countries had been initiated to find a rapid solution to the problem. The representative of Thailand maintained that Thai poultry meat products complied with the high levels of sanitary and hygienic standards accepted internationally.

82. The representative of the Czech Republic confirmed that bilateral consultations had already been initiated with Thailand and would continue with a view to fully clarify the measure. He reassured Thailand of the non-discriminatory nature of the testing methodology used by the Czech authorities.

(c) Australia – Restrictions on imports of sauces from the Philippines containing benzoïde acid

83. The Philippines, joined by Malaysia, raised concerns on Australia's measure to prohibit importation of sauces containing benzoïde acid. The measure was highly discriminatory in light of the fact that sauces containing benzoïde acid originating from New Zealand were allowed entry into Australia. Furthermore, the reasons provided by Australia did not constitute a scientific justification for prohibiting imports from the Philippines. In light of the above, the Philippines requested Australia to lift its import prohibition.

84. The representative of Australia noted his authorities willingness to pursue the matter with the Philippines. International standards did not exist with respect to the use of benzoïde acid in food such as sauces and Australia was currently undergoing a review of its current standards as part of the arrangement to establish a joint food standard-setting mechanism for both Australia and New Zealand. Australia expected that a uniform standard would be in place by mid-1999.

85. The representative of the Philippines noted that this was a clear example of a specific trade concern stemming from the lack of an international standard. The Philippines would endeavour to put the issue under the agenda item on harmonization and monitoring of international standards at the

next Committee meeting. The Philippines would also request Codex to give priority to the matter, given its importance for developing countries.

9. Calendar of meetings for 1999

86. The Committee adopted the following provisional schedule of meetings for 1999:

10-11 March 1999
7-8 July 1999
10-11 November 1999

The EC representative noted the difficulty Members faced in adequately preparing for meetings of the Committee if these were scheduled at less than four month intervals. He further noted that it would be useful if the Committee would commence a practise of blocking exact weeks (for example the first week in March, June and September) during the calendar year for SPS Committee meetings. This would greatly facilitate the scheduling of Members' work during the year. The Chairman indicated that informal meetings (for example on Article 5.5 guidelines and on the review exercise) would, to the extent possible, be scheduled to immediately precede the formal meetings of the Committee.

10. Date and agenda of the next meeting

87. The next meeting of the Committee is scheduled for 11-12 November 1998. The Committee agreed on the following items tentative agenda:

1. Adoption of the agenda
2. Implementation of the Agreement
 - (a) Information from Members
 - (b) Specific trade concerns
 - (c) Consideration of specific notifications received
 - (d) Any other matters related to the operation of transparency provisions
3. Monitoring of the use of international standards
4. Consistency - report by the Chairman on consultations
5. Review of the SPS Agreement - report by the Chairman on consultations
6. Technical assistance and cooperation
7. Matters of interest arising from the work of observer organizations
8. Observers – Requests for observer status
9. Other business
10. Date and agenda of next meeting

88. The Chairman reminded delegates that the deadlines for requesting the inclusion of specific items on the agenda or receiving inputs from Members under respective agenda items were as follows:

Agenda item 2: (b) Specific trade concerns and (c) notifications	29 October 1998
Agenda item 3: Monitoring procedure: Specific examples	12 October 1998
Agenda item 5: Review of the SPS Agreement: Non-papers	27 October 1998
