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**Committee on Sanitary and Phytosanitary Measures**

**SUMMARY OF THE MEETING OF 24 OCTOBER 2005,  
RESUMED ON 1-2 FEBRUARY 2006**

Note by the Secretariat<sup>1</sup>

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

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## **I. ADOPTION OF THE AGENDA**

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its thirty-fourth meeting on 24 October 2005 and 1-2 February 2006. The agendas proposed for 24 October 2005 in WTO/AIR/2663, and for 1-2 February 2006 in WTO/AIR/2744, were adopted with amendments.
2. The Chairman drew attention to the entry into force of the 1997 revision of the IPPC as of 3 October 2005 and the replacement of the Interim Commission on Phytosanitary Measures with the Commission on Phytosanitary Measures (CPM). This was an important advancement with respect to the development of international plant protection standards, and hence also to the work of the SPS Committee.
3. The Secretariat reminded Members of the importance of ensuring that documents were submitted well in advance of the Committee meeting, so that they could be circulated as formal documents in the three WTO working languages.

## **II. ACTIVITIES OF MEMBERS**

### *Update on the avian influenza situation in Turkey*

4. The representative of Turkey reported on the latest information on avian influenza (AI) in Turkey (G/SPS/GEN/620 and G/SPS/GEN/620/Rev.1). Since 2000, the Turkish Government had been working on scenarios to combat outbreaks of AI. Prevention measures had entered into force in 2001, epidemiological surveillance at national level in 2002, and a contingency plan had been launched a few months after the first outbreak in October 2005. Disease prevention and control methods and measures had been in place since October 2005. Collaboration between the government bodies involved and the related international organizations had been enhanced, including through the establishment of a specific scientific committee. Specific actions taken when an outbreak was reported included preliminary identification of infected animals, collecting of samples, banning of animal movements, cleaning and disinfection, and information dissemination. Other risk reduction and control interventions, as well as administrative and financial measures, were also carried out.
5. The first outbreak of the H5N1 strain of the AI virus, observed in north-western Anatolia, had eventually been eradicated through a series of measures based on the OIE Terrestrial Animal Health Code recommendations. Relevant international organizations, including the OIE, WHO and FAO, as well as institutions of the European Union and neighboring countries, had immediately been informed of the situation and of the measures taken. A second outbreak, in eastern Anatolia, had been confirmed in January 2006 and further outbreaks had followed. There were currently 67 confirmed cases of AI infection in Turkey and 66 suspected cases. Preventive and control measures had been applied in all cases. Cases of AI infection had been mostly detected in small open-range, backyard poultry flocks located along bird migration routes and, to a much lesser extent, in swamp areas. No cases had been observed in commercially integrated medium- to large-sized poultry production enterprises in Turkey. Movement of hens between poultry production enterprises and household backyards was currently prohibited. Reported cases had been steadily decreasing within the last two weeks. Twenty-one human cases of infection by H5N1 strain of AI virus had been diagnosed, of which four had been fatal and the rest were recovering.
6. The representative of Turkey stressed that the foremost prerequisite to deal with AI outbreaks was to recognize and identify the problem and to circulate the information. Since the control and eradication of the AI virus was costly and required great efforts, AI outbreaks should be overcome through responsive and coordinated efforts at both national and international levels.

*Update on the avian influenza situation in Colombia*

7. At the meeting of 24 October, under "Other Business", the representative of Colombia expressed concern about a recent notification by Ecuador of measures on poultry from Colombia due to avian influenza (G/SPS/N/ECU/7). As detailed in document G/SPS/GEN/602, in September 2005 the Instituto Colombiano Agropecuario (ICA) had detected the presence of subtype H9 of the avian influenza virus, a low pathogenic subtype, in three poultry farms. Subtype H9 strain is endemic in various regions of the world and represents a significantly lower risk to human and animal health than subtypes H5 and H7. None of the affected birds had shown symptoms of the disease, rather the finding had been the result of the active epidemiological surveillance measures carried out by ICA in coordination with the Colombian National Federation of Poultry Farmers (FENAVI) under the National Programme for the Prevention of Exotic Diseases. This surveillance involved screening for the disease by taking and analyzing samples, on the basis of a statistical design, in commercial poultry farms.

8. ICA imposed various quarantine measures to confine the virus to the three affected farms. In addition, doctors, veterinarians and epidemiologists had been sent to the affected zone to conduct surveillance measures on the affected farms and in the vicinity, and to train the local public health authorities and health services providers. The representative of Colombia had stressed that the Colombian health authorities had consistently given priority to the principle of transparency, notifying the presence of the low pathogenic avian influenza virus even though there was no obligation to notify the competent international organizations of this virus subtype.

9. The representative of Ecuador indicated that he was seeking more information on the measure referred to in G/SPS/N/ECU/7, which was an import ban on birds, similar to some in force in other South American countries. Ecuador was experiencing one of the first outbreaks of avian influenza in Latin America and had to take urgent measures, however it was seeking to coordinate with the Colombian authorities to assess the practical effects of the measure at issue.

10. When the meeting resumed in February 2006, the representative of Colombia presented further information in document G/SPS/GEN/621. This report emphasized the absence of high pathogenic strains of AI virus in Colombia and appealed for the lifting of the trade restrictions imposed by a number of Members. Colombia had given priority to the principle of transparency by notifying the detected subtype H9, although this was a non notifiable strain pursuant to the OIE Terrestrial Animal Health Code. Some Members, however, had imposed restrictions on imports of Colombian poultry products, thus violating the principles of the SPS Agreement and the regional agreements to which Colombia was a party.

11. The representative of the OIE encouraged Colombia to pursue its efforts with regard to transparency and expressed concerns about countries taking advantage of the transparency efforts of some Members to restrict trade in contravention to the OIE recommendations.

*Outcomes of a simulation on disease outbreak in Australia*

12. The representative of Australia reported on a national simulation exercise to test the preparedness and response arrangements in place in Australia in case of a multi-focal outbreak of avian influenza (G/SPS/GEN/619). National committees were finalizing their reports, but it was clear that the exercise had confirmed the robust nature of Australia's preparedness and response arrangements and had highlighted the importance of collaboration between government jurisdictions and between government and industry. Australia would make copies of the formal report on "Exercise Eleusis '05" available to Members and it would be posted on the website of the Australian Department of Agriculture, Fisheries and Forestry (DAFF) ([www.daff.gov.au](http://www.daff.gov.au)).

13. Australia suggested that the SPS Committee was an appropriate forum for sharing lessons learned from such simulations and for considering how to reinforce preparedness and capacity for response. Several Members had held or planned to hold significant AI simulations, and the international organisations such as the OIE, the FAO and the World Health Organisation were well positioned to assist Members with these tasks.

14. The representative of the European Communities agreed that although conditions were not identical in all regions, all Members could learn from other's experience in combating outbreaks of major infectious diseases. The European Communities had also carried out a number of simulation exercises whose results could add to the knowledge on how to address this particular issue. In the context of the current outbreaks of H5N1 in Asia, the European Communities had made available copies of EC contingency plans, basic legislation and reports of EC inspection services on outbreaks of AI in Europe.

*Update on advances in the eradication of foot and mouth disease in Bolivia*

15. The representative of Bolivia recalled that the competent health authorities of Bolivia had declared the entire national territory free of FMD with vaccination in October 2005. This was the result of exhaustive work undertaken by both the private and government sectors within the framework of the national programme to eradicate FMD, applying the guidelines set out in the OIE Terrestrial Animal Health Code. Over the past two years, epidemiological studies had shown an absence of viral activity and a solid active and passive surveillance structure for this disease. Bolivia would continue to report progress in this area, with a view to maintaining its recognition as country free from FMD with vaccination. Bolivia was also working to achieve recognition as a BSE-free country. These efforts to achieve a favourable health status were undertaken to open and consolidate export markets for Bolivia's animal products. With regard to transparency, Bolivia had provided formal notifications of all its sanitary and phytosanitary provisions that applied to international trade.

*Update on Canada's BSE import policy*

16. The representative of Canada reported that, following the determination that its BSE import policy was more restrictive than the current international standards adopted in May 2005 by the OIE, Canada had updated its BSE import policy as notified in G/SPS/N/CAN/244/Add.1. This policy would maintain Canada's appropriate level of protection, but was lesser trade restrictive, for example, by identifying commodities eligible for safe trade, under certain conditions, whether or not a country had confirmed cases of BSE. Canada invited its trading partners to similarly revise their BSE import policy in accordance with the latest OIE guidelines.

17. The representative of Canada also reported on an epidemiological report entitled "Canada's Assessment of the North American BSE Cases Diagnosed from 2003-2005 (Part II)", released in January 2006. This report provided an updated examination of the current BSE situation in Canada based on the understanding of the disease to date and supported the conclusion that Canada's level of BSE infection was very low and declining in response to remedial measures applied (G/SPS/GEN/635). For any zoonotic disease of global concern, it was important that Members' import requirements be based on OIE guidelines.

18. The representative of the OIE expressed support for Canada's efforts. Taking into account the important increase in the level of knowledge about BSE, the OIE had refined the chapter on BSE to a more simple and scientific approach which had been adopted by OIE member countries in May 2005. The OIE strongly encouraged Members to use these standards. Similar steps were likely to be taken by the OIE with regard to avian influenza.

*Actions regarding BSE in the United States*

19. The representative of the United States recalled that in 2001 the Harvard Center for Risk Analysis had analyzed and evaluated the measures implemented by the US Government to prevent the spread of BSE in the United States and to reduce potential human exposure to the BSE agent. The study, revised in 2003, had concluded that if introduced, BSE agents would be very unlikely to spread within the United States. A recent update of the model used for the study, based on new data about compliance with US feed restrictions, had further lowered the risk estimates.

20. In June 2004, the United States had introduced an enhanced BSE surveillance programme which monitored the possible presence of the BSE agent in the US herd, thus assessing the effectiveness of the prevention measures in place. The programme was designed to detect the presence of BSE with 99 per cent certainty if as few as five targeted high-risk cattle had BSE. Sampling was neither exhaustive nor random but biased towards the most likely population. Since the beginning of the programme, only one BSE-positive animal had been found in almost 600,000 tested animals. The herd of origin had been identified and response activities in accordance with the US Department of Agriculture's BSE Response Plan of September 2004 had begun.

21. The United States had implemented all the internationally recognized food safety measures and taken all the animal health protection measures necessary to prevent the entry and amplification of the disease in the country. The United States welcomed the recent rescinding of BSE restrictions on US beef by some Members, and urged all the Members still maintaining such restrictions to remove them in light of the conclusions of the Harvard risk assessment study and of the results of the enhanced BSE surveillance programme.

#### *Review of the EC animal health policy*

22. The representative of the European Communities indicated that an external evaluation had recommended that the European Communities improve its current Community Animal Health Policy (CAHP) (G/SPS/GEN/632). For this purpose, a survey had been launched in January 2005 of the views of stakeholders on the past CAHP (1995-2004) as well as of their suggestions for the future. Interested Members could complete an on-line questionnaire and examine supporting documents before the end of February 2006 from: [http://europa.sanco.cec.eu.int:8081/comm/food/animal/diseases/strategy/cahp\\_questionnaire\\_en.htm](http://europa.sanco.cec.eu.int:8081/comm/food/animal/diseases/strategy/cahp_questionnaire_en.htm)

23. A specific survey of imports from third countries into the European Communities, including questions about the EC policy on regionalization, had also been distributed and interested Members were encouraged to complete the questionnaire, available at [http://europa.eu.int/comm/food/animal/diseases/strategy/survey\\_third\\_countries\\_en.htm](http://europa.eu.int/comm/food/animal/diseases/strategy/survey_third_countries_en.htm) by the end of February 2006.

24. The representative of Canada noted his country's appreciation for the opportunity to provide an evaluation of the CAHP and the intention to ensure that both its animal and public health regulators gave full consideration to the questionnaire. Given the short period of time available, Canada requested the European Communities to accept comments received beyond the current deadline.

#### *EC upgraded food and feed legislation*

25. The representative of the European Communities recalled that a complementary set of rules on food and feed, the "food hygiene" package, had entered into force at the beginning of 2006. This set of laws, aimed at tightening and harmonizing EC food safety measures included regulations on microbiological criteria for foodstuff, on official feed and food controls, and on feed hygiene. A key aspect of the new legislations was that each link of the food and feed chains would share the responsibility of ensuring that food and feed met the required safety standards. In order to provide guidance on certain key questions related to the implementation of the new legislations, several

documents were available at the following address: [http://europa.eu.int/comm/food/food/biosafety/hygienelegislation/index\\_en.htm](http://europa.eu.int/comm/food/food/biosafety/hygienelegislation/index_en.htm). The European Communities encouraged all Members to consult these useful documents.

26. The representatives of Canada and of the United States complimented the European Communities for having addressed their concerns in the final version of the rules and for conducting seminars for third countries to explain the implementation process for the new legislations. They looked forward to a similarly open attitude with regard to any future implementation-related concerns.

27. The representative of Saint-Vincent and the Grenadines questioned whether the European private sector food regulations, such as the EUREP/GAP certification programmes and TESCO's "Nature Choices", were in conformity with the EC upgraded food and feed legislations and the SPS Agreement. Saint Vincent and the Grenadines were concerned that these private sector systems adversely affected developing countries.

28. The representative of the European Communities clarified that the current "food hygiene" package replaced and rationalized the former legislation. EC private sector standards often extended beyond classic SPS requirements to environmental and ethical issues, workers protection or quality. The European Commission had limited power to address these standards, except if they exceeded EC SPS requirements. The European Commission had made the private standard-setting bodies aware of the concerns of developing country Members and had asked them to take these concerns into account. The representative of Argentina emphasized their increasing concern over the use of private standards that were more restrictive than EC official requirements.

#### *FMD situation in Brazil*

29. At the meeting of 24 October, under "Other Business", the representative of Brazil provided information on measures taken to eradicate FMD following an outbreak on 1 October 2005 in the state of Mato Grosso do Sul, an FMD-free zone with vaccination. The recommended standard procedures had been taken, and on 8 October 2005 FMD virus serotype O had officially been diagnosed in serum samples. The OIE, the Pan-American FMD Center, the Permanent Veterinary Committee of the Southern Cone, neighbouring countries and trading partners had immediately been informed of the actions taken to control the FMD outbreak. These actions, based on the OIE Terrestrial Animal Health Code, were aimed at assessing the extension of the outbreak and controlling its spread. They included barriers to control the access to the infected municipalities and the establishment of a "safety zone" covering the infected area, within which measures such as disinfection of premises, stamping out of susceptible animals, epidemiological surveillance, inspection of sheep, goats and pigs, and suspension of movement of animals originating from the zone and of trading of their products and by-products had been put in place. These sanitary control measures had involved federal, state and local material and human resources at fixed checkpoints and in mobile teams.

30. On 17 October, four new cases of FMD in the state of Mato Grosso do Sul, three located 25 km away from the initial outbreak, had been confirmed. Surveillance activities in the region led to the identification of four additional suspicious outbreaks in Mato Grosso do Sul, on the basis of clinical and epidemiological diagnosis by an official laboratory, and the "safety zone" had been extended. On 21 October, animals with clinical signs compatible with vesicular disease had been identified in the state of Paraná. Samples had been collected and sent to an official laboratory. Access to the four farms affected had been restricted and the premises put under quarantine measures.

31. All the corrective and preventive actions recommended by the OIE to control and eradicate FMD outbreaks had been put in place by the Brazilian sanitary authorities. Brazil therefore expected

that its trading partners would limit their import restriction measures to the affected states and to products clearly representing a risk according to international guidelines.

32. The representative of the European Communities stated that, as a major importer of Brazilian beef and beef products, the European Communities was following the developments in Brazil with great interest. The sanitary measures taken by the European Communities in relation to FMD outbreaks in Brazil had always been in full compliance with its WTO obligations. Last year, despite an FMD outbreak in the province of Amazonia, the European Communities had not imposed any restrictions on Brazilian imports as Amazonia was far away from the major beef exporting regions in Brazil, thus applying Article 6 of the SPS Agreement. However, this recent outbreak was taking place in a region authorized for export to the European Communities. The European Communities had therefore imposed restrictions on exports from that region and two neighbouring regions, but continued to allow imports from other authorized regions in Brazil. The representative of the European Communities encouraged Brazil to pay particular attention to the traceability and movement restrictions of animals, to address deficiencies that had been identified in the past in an expedited and transparent manner.

33. When the meeting resumed in February 2006, the representative of Brazil reported that 33 additional outbreaks of the disease had been identified within the safety zone established around the affected farms and notified to the OIE. Measures compliant with the OIE standards had been taken to eradicate these outbreaks. Brazil had decided to cull the animals and to provide compensation to livestock raisers; more than 30,000 susceptible animals had been slaughtered by 18 January, half coming from infected farms, half from suspected farms.

34. In November 2005, measures in place to monitor the movement of animals from the infected zone had allowed the identification of suspected cases prior to the outbreak in the Brazilian state of Parana. The suspected farms had received animals originating in Mato Grosso do Sul. All farms located within a 10 km radius from these suspected cases had been quarantined and suspected cases notified to the OIE.

35. On 17 January, surveillance measures had made it possible to restrict the zone of sanitary risk to the Mato Grosso do Sul and Parana states. The state of Acre, and the municipalities of Boca do Acre and Guajará in the state of Amazonas, were still FMD-free with vaccination. In accordance with the principle of transparency, 14 reports on the progress of the disease had been sent to the OIE and seven technical notes had been provided to trading partners. In light of all the measures adopted by Brazil to control and eradicate the outbreaks, Members should only restrict imports of Brazilian beef originating in the infected zones, in accordance with international standards

### **III. SPECIFIC TRADE CONCERNS**

#### **(a) New issues**

##### *Canada's import restrictions on Enoki mushrooms from Chinese Taipei*

36. The representative of Chinese Taipei indicated that Chinese Taipei had been exporting Enoki mushrooms with a small amount of growing medium to Canada for several years. In January 2005, without prior notice, Canada had banned imports of Enoki mushrooms with trace amounts of growing medium. Canada required that all growing medium should be removed by cutting off the stalk of the mushroom, but this significantly reduced the shelf-life of the mushroom. In March 2005, Canada had justified this new measure by explaining that the growing medium used for Enoki mushroom cultivation could be a pathway for the introduction of quarantine pests designated by the Canadian Food Inspection Agency, such as sudden oak death or the golden nematode. These quarantine pests did not exist in Chinese Taipei.



37. Furthermore, Enoki mushrooms were produced in Chinese Taipei under soil-free conditions. The growing medium was autoclaved prior to its use and the mushroom clusters were vacuum-packed in plastic bags immediately after harvesting, with only very little growing medium adhering to the fruiting bodies. However Chinese Taipei had been unable to convince Canada that the probability of quarantine pests being introduced through its Enoki mushrooms was extremely low. Chinese Taipei considered that Canada's restrictions were more trade restrictive than necessary and urged Canada to lift its import ban on Enoki mushrooms. Bilateral meetings held the previous day had provided a fruitful and promising exchange of views.

38. The representative of Canada clarified that Canada had not implemented a new policy on Enoki mushrooms, but was enforcing an old 1995 phytosanitary policy on soil in association with mushrooms. There was, therefore, no requirements for notification. Historically, Chinese Taipei's mushrooms imported into Canada were free from growing medium and had entered Canada without restriction. Enoki mushrooms were treated as low-risk commodities and therefore inspected at a low rate. In 2004, shipments of Enoki mushrooms accompanied by a significant amount of growing material had been intercepted. These shipments originated from a variety of trading partners including Chinese Taipei. Consistent with the provisions of the IPPC, Canada had provided Chinese Taipei's officials with several official notifications of non-compliance, including a written explanation of the scientific rationale for prohibiting the entry of Enoki mushrooms accompanied by growing medium. In order to undertake a risk assessment, Canada had sought scientific information on the type of pests that might be carried by the medium from Chinese Taipei, but had not yet received the required information. Upon reception of the relevant scientific information, Canada would conclude the risk assessment expeditiously. The current science-based requirements would remain in place until Canada had assurance that the growing medium would not carry plant pest risks to Canada.

*Israel - Absence of phytosanitary import legislation*

39. The representative of the European Communities recalled that this trade concern had been raised bilaterally on several occasions since 1984. Draft import legislation had been provided to the European Communities in November 2003. Its revision, which included some of the comments made by the European Communities in May 2004, had been issued in January 2005 to be presented for revision, approval and publication by the Israeli competent authorities. However the legislation was still at the draft stage, despite repeated promises by Israel that a final text would be published last year. The length of the internal administrative procedure required to adopt the legislation was unjustified. The European Communities considered that the lack of phytosanitary legislation contravened Article 7 of the SPS Agreement and created unpredictability for EC exporters of plants and plant products. Furthermore, the draft import legislation maintained the system of import licenses and permits currently imposed by Israel. The European Communities urged Israel to immediately adopt national phytosanitary legislation including import requirements compliant with the SPS Agreement.

40. The representative of Israel indicated that these concerns would be transmitted to the relevant Israeli authorities and addressed as soon as possible.

*Israel's import restrictions on EC beef due to BSE*

41. The representative of the European Communities noted that exports of EC beef into Israel were currently allowed only from a limited number of EC member States and restricted to calves younger than six to eight months. This trade concern had been raised bilaterally on several occasions. There was no scientific justification for discriminating between member States. No native case of BSE had been detected in some of the EC member States whose beef imports were prohibited. BSE protective measures were equally implemented through the whole EC territory and equally applied to beef for consumption within the European Communities and beef for export. With regard to the

restriction to calves younger than six to eight months, amendments to the Terrestrial Animal Health Code adopted by the OIE in May 2005 included the addition of deboned skeletal muscle meat of animals less than 30 months to the list of products which could be safely traded, under certain conditions, regardless of the BSE status of the exporting country. Many countries, including Algeria, Egypt, Lebanon, Libya, Morocco, New Zealand and Tunisia had replaced their import ban on EC beef during 2004 and 2005 with specific import requirements in accordance with OIE standards. The European Communities urged Israel to take similar action and allow imports of beef from animals older than six to eight months into Israel.

42. The representative of Israel recalled that his country had already engaged bilaterally with the European Communities on this issue in order to find a mutually satisfactory solution.

*Japan's import restrictions on EC beef due to BSE*

43. The representative of the European Communities reported that Japan had recently reopened its market for beef exports from certain EC member States, but in accordance with Articles 2.3 and 3.3 of the SPS Agreement, Japan should reopen its market to bovine products from all EC member States. He indicated that the protective BSE measures, including the implementation and enforcement of the feed ban, the removal of specified risk materials and the elaboration of an identification, registration and traceability system for bovines and their products able to warrantee the age of each bovine, could fully satisfy the safety of consumers anywhere in the world.

44. The representative of the United States noted that Japan had reopened its market for some US beef products but maintained scientifically unjustified restrictions on other products, inconsistent with international standards. The United States encouraged Japan to remove its restrictions on all US beef exports in light of the information provided earlier.

45. The representative of Japan mentioned that numerous countries still suspended beef imports from BSE-infected countries and that international standards on BSE changed every year. Last year, Japan had carried out a risk analysis and decided to reduce its beef imports from a few BSE-affected countries. Japan would manage the BSE issue on the basis of risk analysis and hoped that EC concerns could be resolved through technical consultations with EC member States.

*Import restrictions on EC exports of live birds, meat, meat products and other derivates due to avian influenza*

46. The representative of the European Communities stated that the European Communities had learned, thanks to SPS notifications, that four WTO Members had recently imposed a ban on EC poultry products including live birds, poultry meat and meat products, feathers, animal feed from poultry meat, bone and feather meal, and other by-products of poultry, on the ground of the presence of avian influenza (AI) in the EC territory. Three of these Members had targeted the ban to Greece, although the suspected case of AI reported by Greece in October 2005 had proved to be negative for highly pathogenic avian influenza (HPAI). The current ban imposed on Greece was not scientifically based, nor based on any existing OIE standards. It was therefore inconsistent with Article 3.1 of the SPS Agreement.

47. The European Communities had been recognized by the OIE as free of AI and had rapidly taken effective safeguard measures to protect and maintain this status. A fourth WTO Member had banned imports of the same poultry products from the entire world. According to OIE rules and the provisions of the SPS Agreement, bans on bird products should only apply to regions affected by HPAI. The European Communities urged these four Members to bring their legislation into compliance with international rules and Article 2.2 of the SPS Agreement and lift the ban.

48. The representative of Canada requested Members to cautiously react to low pathogenic AI outbreaks, especially in light of the current worldwide sensitivity on AI-related issues, in order to not discourage Members from notifying such outbreaks. The representative of Suriname stated his country's concern about the EC ban on imports of wild birds from Suriname. Suriname was an AI-free country, as had been proven by investigations by UK authorities tracking an infected bird detected in a shipment of wild birds. Investigations had demonstrated that the infected bird did not originate from Suriname. Other birds in the same consignment, sent to other EC countries, had shown no sign of the disease. Suriname's exports of wild birds were suffering from the EC ban and Suriname questioned when its exports could resume.

*Japan's positive list system for pesticides, veterinary drugs and feed additives MRLs*

49. The representative of the United States reported that in June 2005, Japan's Ministry of Health, Labor and Welfare (MHLW) had notified its final draft of thousands of new provisional maximum residue limits (MRLs) for over 700 pesticides, veterinary drugs and feed additives covering all basic commodity groups.. The United States was grateful of having been consulted throughout the elaboration of this final draft and the development of implementation plans for Japan's new food sanitation law. In November 2005, the provision of a six-month transition period before official enforcement of the provisional MRLs had been notified by MHLW. Without any reference to the final draft of June 2005 or in any subsequent notification, the Ministry of Agriculture, Forestry and Fisheries of Japan (MAFF) had announced in December 2005 the implementation and enforcement of the provisional MRLs on rice, wheat, barley and possibly other commodities. The United States was concerned about the effect of these new MRLs on agricultural exports to Japan and requested Japan to clarify its plans regarding the enforcement of these MRLs.

50. The representative of China requested Japan to provide a transitional period before implementing this positive list system, and noted that China had also put this item on the agenda. The representative of Australia expressed appreciation for Japan's collaborative attitude when developing this comprehensive new positive list and noted that Japan's private sector was also confused about the exact nature of the testing requirements announced in December 2005 that were not included in the new positive list system of May 2005. Australia encouraged Japan to provide some clarification to Members and Japanese importers.

51. The representative of Japan clarified that, in accordance with the amendment of the Food Sanitation Law of May 2003, the positive list system for pesticides, veterinary drugs and feed additives in food would be implemented as of May 2006 as had been officially announced in December 2005. With regard to imports of rice, wheat and barley under the state-trading system, due to the delays for shipments to reach the domestic market and storage in Japan, Japan had introduced a new inspection system as of December 2005 in order to comply with the enforcement of the new positive list system at the end of May 2006. From August to October 2005, Japan had explained to governmental organizations of countries exporting rice, wheat and barley to Japan that the new inspection system was to be implemented in December 2005.

(b) Issues previously raised

*EC's restrictions on cinnamon*

52. At the meeting of 24 October, under "Other Business", and when the meeting resumed in February 2006, the representative of Sri Lanka reported that his country had encountered problems with exports of Ceylon cinnamon (*Cinnamomum zeylanicum*) to the European Communities, in particular to Germany, in November 2004 and August 2005, on the grounds that the cinnamon contained sulphur dioxide (SO<sub>2</sub>) (G/SPS/GEN/597). Directive No. 95/2/EC and its subsequent amendments on the import of foodstuffs listed conditionally permitted preservatives and additives

including sulphur dioxides (SO<sub>2</sub>) and sulphites and maximum tolerated levels in a number of products, but not in cinnamon. In cinnamon, SO<sub>2</sub> functioned as a preservative and an anti-browning agent.

53. The chemical evaluation undertaken by the FAO/WHO Joint Expert Committee on Food Additives (JECFA) in 1998 had shown that the use of SO<sub>2</sub> in acceptable quantities as a food additive did not produce any adverse effects on human health. The presence of a certain amount of SO<sub>2</sub> as a food additive had also been permitted in Codex standards (since 1999) and EC standards. SO<sub>2</sub> fumigation had been applied by the cinnamon industry in Sri Lanka for many generations as an acceptable method to obtain a better colour and to prevent fungus and insects, and as there was no direct application of sulphur to cinnamon, no residual content of SO<sub>2</sub> was expected to be present in the final product.

54. The current EC restrictions would drastically reduce Sri Lanka's exports to the EC market, and might also have an effect on Sri Lanka's exports to other markets. Sri Lanka was currently the world largest exporter of Ceylon cinnamon and cinnamon had become Sri Lanka's third largest agriculture export product after tea and coconut. Over 210,000 poor rural people engaged in the cultivation and processing of cinnamon would be directly affected if no remedial measures were taken in the immediate future.

55. Sri Lanka questioned the consistency of the EC measure with Article 3.3 of the SPS Agreement. Although currently there was no international standard specifically governing the use of SO<sub>2</sub> in cinnamon either as a food preservative or anti-browning agent, the Codex General Standards for Food Additives indicated that the lack of reference to a particular additive or to the use of an additive in a specific food did not imply that the additive was unsafe or unsuitable for use in food. The fact that there was no international standard governing the use of SO<sub>2</sub> in cinnamon did not justify the EC ban on imports of Sri Lankan cinnamon until an international standard was developed. Sri Lanka queried whether the EC Scientific Committee for Food had undertaken an assessment of the risk posed by Sri Lanka's cinnamon on human health; what relevant economic factors, within the meaning of Article 5.3, had led the European Communities to decide that a *de facto* import ban was the appropriate level of protection required in this situation; and if the European Communities had taken into account the objective of minimizing negative trade effects when determining the appropriate level of SPS protection as required by Article 5.4 of the SPS Agreement. Since SO<sub>2</sub> was tolerated as a food additive in other food items, Sri Lanka suggested there was scope for the European Communities to provide longer time-frames for Sri Lanka to comply with EC SPS measures on cinnamon, as provided for in Article 10.2 of the SPS Agreement. Sri Lanka requested the European Communities to suspend its current *de facto* ban while his country pursued the development of a Codex standard on MRLs for cinnamon. Sri Lanka also requested the SPS Committee to consider granting Sri Lanka a time-limited exception, as provided for in Article 10.3 of the SPS Agreement, to export cinnamon to the European Communities with a SO<sub>2</sub> content of 150 ppm until the maximum residue limit for SO<sub>2</sub> in cinnamon were defined at the international level.

56. The representative of China requested the European Communities to provide a risk analysis and safety assessment report and expressed hope the issue could be resolve through bilateral consultations.

57. The representative of the European Communities recognized that cinnamon was an important cash crop for a large number of subsistence farmers in Sri Lanka. No new measure had been taken, but the EC legislation on food additives and contaminants had no provision for sulphur dioxide in cinnamon, and changing the legislation to allow SO<sub>2</sub> in cinnamon could be a lengthy process. The European Commission had explored the possibility of providing technical assistance to Sri Lanka to assist in the preparation of this dossier. The European Commission had brought EC member States'

attention to the need to approve SO<sub>2</sub> as an additive in cinnamon and encouraged member States to adapt their import policies pending the modification of the EC legislation.

58. The representative of Codex confirmed that the use of SO<sub>2</sub> as an additive was currently under discussion at step 3 in the framework of the Codex Committee on Food Additives and Contaminants (CCFAC). Many additives were under discussions. The pace of finalization of the discussions depended on contributions and views of CCFAC participants. Sulphur dioxide had been evaluated by the JECFA in 1998 and was currently allowed on a few commodities. The CCFAC would meet the last week of April 2006, which provided an occasion for Members to stress the importance and urgency of developing a MRL for SO<sub>2</sub> in cinnamon.

#### *Thailand's Regulation 11*

59. The representative of the United States expressed appreciation for Thailand's several extensions and eventual cancellation of implementation of Decree 11, as notified in G/SPS/N/THA/116/Add.5. However, the underlying decree was still in place and its overall requirement that food must be proven to be safe through unspecified testing and certification processes remained of concern. Extensive bilateral discussions had been held and Thailand was strongly encouraged to reconsider the framework of the decree and to notify any changes sufficiently in advance for WTO Members to comment before final decisions were made.

60. The representative of Thailand clarified that, on the basis of comments by some Members, the requirements for a food health certificate had been withdrawn and the current review focussed on high risk food products. This review would be based on scientific risk assessment. Thailand was convinced that certifying healthy food on the basis of international standards was a way of facilitating trade. Thailand was also willing to recognize the equivalence of other measures on the basis of international guidelines.

#### *Australia's import restrictions on New Zealand apples*

61. The Ambassador of New Zealand informed the Committee that since this issue had been raised in June 2005, Australia had issued a new revised draft import risk analysis for New Zealand apples. This new revised draft allowed for the import of New Zealand apples into Australia under certain conditions. Australia had already proposed a similar conditional access in response to previous requests without justifying the scientific basis of these conditions. Fire blight disease had been used for the past 80 years as an excuse to prevent New Zealand access to the Australian market. Despite the findings of independent international fire blight experts in the *Japan - Apples* case that symptom-less mature apples were not vectors for the transmission of fire blight, Australia required not only that orchards be inspected by their own officials and found free of fire blight, but also that apples be immersed in chlorine prior to export. These measures were unjustified. Australia also prohibited imports of New Zealand apples into Western Australia because of apple scab disease, although another outbreak of apple scab had been reported in Western Australia at the time the revised draft import risk analysis had been released.

62. New Zealand considered that Australia's biosecurity import risk analysis process, based on an endless cycle of drafts and consultations, constituted a disguised restriction on trade. These undue delays created uncertainty about whether and when the Australian Government would complete its import risk analysis. New Zealand was considering every available option for resolving this issue.

63. The representative of the United States stated that there was an outstanding US request for access to the Australian market. Given both the strong science and the legal record established by the WTO dispute settlement process with regard to the risk of transmitting fire blight via mature

symptom-less apples, Australia should remove its unjustified import prohibitions and ensure that its import requirements were based on science and consistent with the SPS Agreement.

64. The representative of the European Communities recalled that in June 2005, Australia had suspended its import risk assessment for New Zealand apples pending a review in the light of the *Japan-Apples* case. Then a new revised draft had been submitted for consideration. The European Communities had similar experiences with Australia in trying to get access for chicken meat or pig meat. Some progress had been made with regard to pig meat and the European Communities was grateful that the Australian Government had defended its import risk assessment on pig meat against a court case taken by pork producers.

65. The representative of Australia stressed that all the relevant scientific information, including that considered in the *Japan-Apples* case, had been taken into account in the assessment of the risks from New Zealand apples. The new draft report was available for comments until 30 March 2006. Australia encouraged any Members to provide any additional concerns or scientific information they might have. After consideration of comments received, a final review of the draft report would be undertaken by an eminent group of scientists. If this group confirm that all relevant information has been taken into account in the analysis (including stakeholder comments), the report and its recommendations on import conditions would be transmitted to the Director of Animal and Plant Quarantine in Australia for a policy determination. The revised draft report took account of Australia's level of protection (ALOP). Fire blight was one of a number of pest and diseases of quarantine concern dealt with in the revised draft report. The report appropriately took into account the variations in the phytosanitary status of different regions within Australia. Australia expected to continue to work with New Zealand bilaterally to resolve this issue.

*EC deviation from international standard for wood packaging material*

66. The representative of the United States welcomed the recent decision of the EC Standing Committee on Plant Health to further delay until 1 January 2009 the requirement that imported wood packaging material be debarked (Directive 2004/102). The United States commended the European Communities for their commitment to work through the IPPC to address issues related to ISPM 15 based on scientific evidence. The United States noted that when individual IPPC members unilaterally implement requirements for wood packaging material that have not been reviewed and approved through the IPPC standards-setting process, they risk disrupting global trade and unfairly penalize those countries that do respect their WTO obligations.

67. The representative of Canada also expressed appreciation for the postponement of the debarking requirement. Time should be granted in order to allow for a full review of this issue, including consideration of the technical justification for debarking by the IPPC's Technical Panel on Forest Quarantine, with the goal of improving harmonization of measures. Opening ISPM 15 for revision might be considered by the IPPC in April 2006. The representative of the Philippines noted that the Philippines continued to be interested in monitoring further developments of this issue.

68. The representative of the European Communities clarified that the implementation of ISPM 15 was not postponed, but only the debarking requirement. The European Communities remained convinced of the technical and scientific basis of the debarking requirement and it had been difficult to agree to postpone meat. This postponement decision resulted, in part, from previous discussions in the SPS Committee about the potential serious disruption of trade and the need to convince trading partners of the scientific and technical basis for this requirement. The previous decision to postpone the entry into force of this requirement had been rightly highlighted by the Secretariat as a special and differential treatment measure. This second postponement was a similar recognition of the EC willingness to take account of the special needs of both developed and developing country trading partners.

*US import restrictions on potted plants from the European Communities*

69. The representative of the European Communities recalled that this issue had been pursued in bilateral discussions for the past 25 years. Specifically at issue was the request from Denmark and the Netherlands for approval of particular plant species (*Schlumbergera spp* and *Rhipsalidosis spp* respectively). In April 2005, the United States has notified a draft rule on the "Importation of Christmas Cactus and Easter Cactus in Growing Media from the Netherlands and Denmark" (G/SPS/N/USA/1059) with a comment period ending in June 2005. Although efforts had been made to publish this regulation quickly, no final rule had been published to date. The US authorities were invited to publish the final rule as soon as possible and to consider new applications for species with similar production systems or country pest status as an extension of the existing proposed rule.

70. The representative of the United States noted that since June 2005, the United States had conducted a thorough review of all comments received and had begun drafting a final regulation. No revisions to the proposed rule were currently being considered in order to avoid any delays in the publication of the final rule, however it was not possible to give a specific time-frame for such a publication. In addition, the United States was also considering changes to its entire regulatory framework for import measures affecting plants in growing media, as notified in G/SPS/N/USA/1043 in March 2005. Comments on this notification were currently being reviewed. The United States would ensure that any modification to the existing regulations would meet both the plant health protection requirements and the requirements of the SPS Agreement.

*Japan's import restrictions on EC exports of plants and animal products*

71. The representative of the European Communities reported that some progress had been made in consultations between Japan and some EC member States, and that these dialogues would continue on the outstanding issues.

72. The representative of Japan noted that, with regard to the request to lift import bans or ease SPS measures on animal and plants products, risk assessments based on scientific evidence had been carried out. Where the objective assessments showed that the proposed measure met Japan's appropriate level of protection, import bans had been lifted or SPS measures eased. The content and amount of data necessary for the risk assessment differed among species and according to regional conditions, so the duration of the assessment varied accordingly. If the European Communities could be more specific about their concerns, Japan would try to address these through bilateral consultations.

*Venezuela's restrictions on imports of potatoes, onions, fertilized eggs, day-old chicks and meat products*

73. The representative of Canada indicated that this issue was of long duration and frustration. It concerned the discretionary policy of the Venezuelan authorities in the issuance of import permits. Under the WTO rules, issuance of import permits was automatic unless there were underlying SPS concerns. Canadian table potatoes, onions and pork were being refused without any rationale. Although a promising bilateral meeting had been held after the March 2005 Committee meeting, the promises had not been realized. Unless Venezuela had identified legitimate SPS concerns, it should expeditiously issue import licenses for agricultural products from Canada on an automatic basis.

74. The representative of the United States reported that his country was also concerned about the lack of progress on this issue as US exports of yellow corn, oilseeds and dairy products had been affected by the restrictions put in place by Venezuela.

75. The representative of Venezuela noted that a number of the request Canada had made in March had been addressed, and Venezuela had issued permits to import Canadian pork and potatoes. Venezuelan technicians were preparing a visit to Canada to inspect potatoes to be exported to Venezuela. Venezuela was willing to carry out additional bilateral meetings to find a mutually satisfactory solution to Canada's concerns.

*Indonesia's FMD-related restrictions*

76. The representative of Argentina recalled that Indonesia's unjustified restrictions on meat products had been raised at the past four meetings of the Committee. Indonesia required the country of origin to be FMD-free for 12 months prior to shipment and without vaccination for three years, which was inconsistent with the OIE. Indonesia had indicated its willingness to move forward with bilateral negotiations, however no response had been received to Argentina's invitation for Indonesian health authorities to inspect the entire Argentine production chain for meat in March.

77. The representative of Brazil explained that Brazil also encountered difficulties with barriers that Indonesia applied without sufficient scientific basis. Brazil was grateful that Indonesia had removed its barrier for one Brazilian product following bilateral meetings, but restrictions remained on products such as heat-processed meats although the technology protected the product from FMD infection. Brazil requested that Indonesia immediately withdraw these unjustified barriers.

78. The representative of Indonesia clarified that Indonesian had a policy of maximum security for imported products of animal origin based on two criteria, animal health and veterinary public health. The overall objectives of these policies were to maintain Indonesia's status as a country free from all major diseases such as FMD and BSE, and to protect consumers' health and spiritual comfort through assuring the safety of animals distributed in Indonesia. Risk analyses were undertaken through a review of any information related to any animal disease, as well as the sanitary practices of exporting countries. For Indonesia, it was highly important that the process also respect Hallal procedures for Muslim consumers.

79. Indonesia also undertook an on site review of potential exporters in order to collect direct and detailed information on, *inter alia*, the implementation of quality assurance system and food safety systems for food as a prerequisite for import authorization. In December 2005, Indonesia had notified Argentina of its intention to visit Argentina in order to undertake an on site review. Indonesia was still waiting for a positive response on this important issue.

*Panama's restrictions on dairy products*

80. The representative of Argentina stated that since March 2004 Panama applied unjustified requirements on imports of dairy products. Although it had been agreed in October 2004 that Panamanian officials would visit dairy plants in Argentina, this had not occurred. As various Members had noted previously, Panama's unjustified requirements were not only technical but also of a bureaucratic nature. For instance, companies wishing to export to Panama were required to be registered in Panama and the veterinary evaluation services of an exporting country had to be authenticated by the Panamanian competent authorities, supposedly to avoid "ghost companies". As a major beef exporter, Argentina had a long tradition of exporting to more than 90 markets, and a traceability system for its meat. No ghost company could operate in these conditions. In bilateral meetings, Panamanian officials had recognized the efforts undertaken by Argentina to control FMD and had stated that opening of the market was very close. Argentina reiterated its request that Panama bring its regulations into line with the OIE code, remove the bureaucratic barriers to market access and be transparent about its administration procedures.



81. The representative of Brazil recalled that Brazil recently had problems relating to the administrative procedures established by Panama for certain Brazilian products. The amount of requirements resulted in excessive administrative delays. The representative of Costa Rica recalled a trade concern related to undue delay in the inspection of dairy plants by Panama and reported that fruitful bilateral consultations had led to the re-establishment of the trade by several Costa Rican dairy producers. Costa Rica hoped that products from Costa Rican dairy plants still undergoing inspection would soon have access to Panama.

82. The representative of Panama clarified that the sanitary risk assessment methodology used by Panama was in full compliance with both the SPS Agreement and the OIE standards. Panama had never asked exporting countries to declare their FMD-free status. Compliance with Panama's requirements for the export of dairy products was not limited to the inspection of certain dairy processing plants but required the exporting country to objectively demonstrate this compliance. Once Panama would have received the information demonstrating Argentina's compliance with Panama's requirements, a risk analysis would be carried out in order to re-establish the trade in dairy products.

83. The representative of Argentina reported that dairy products were allowed to enter Panama only if the exporting country was FMD-free without vaccination, which exceeded OIE recommendations. Argentina had sent all the information required by Panama although new requirements were regularly being identified.

84. The representative of the OIE observed that OIE standards were developed by experts and agreed and adopted by the international community of all OIE member countries. The OIE was not involved in the policing of these standards, but strongly encouraged member countries to base their national measures on them. Any member country believing that a standard was inadequate had the opportunity to request the OIE to review the standard. Members were free to use the standards in the way they believed suitable for their situation as long as they could justify any departure from the standard.

(c) Consideration of specific notifications received

*Thailand's temporary suspension of importation of live poultry and poultry carcasses from the state of Durango, Mexico (G/SPS/N/THA/126)*

85. The representative of Mexico requested Thailand to conclude the emergency measures which had led to the temporary suspension of imports of live poultry and poultry carcasses from the Mexican state of Durango. The strain of avian influenza (AI) detected in the Mexican poultry products (H5N2) was low pathogenic. Thailand's measures were not compliant with Chapter 2.7.12 of the OIE Terrestrial Animal Health Code on avian influenza. In accordance with the OIE, prior to implementing such measures, Thailand should have demonstrated that it was free of the low pathogenic strain at issue and that it had put in place a monitoring programmes able to detect this type of subtype despite the absence of clinical symptoms. Mexico's programme for AI control and eradication, which had been in force for ten years, ensured the eradication of all subtypes of AI. The state of Durango had complied with all the OIE requirements to regain a disease-free status in the case of a low pathogenic AI infection and was AI-free for all subtypes. Thailand should therefore remove its temporary restrictions, established in 2005.

86. The representative of Thailand indicated that the Thai sanitary authorities had found it necessary to adopt a precautionary approach since Thailand had also experienced AI outbreaks over the last two years. Active surveillance had been put in place to control and eradicate the disease. Areas at risk had been scanned and movements of poultry and poultry products within the country

were under control. Thailand had temporarily banned some Mexican poultry exports from the infected state only.

*Costa Rica's phytosanitary requirements on fresh oranges from Nicaragua (G/SPS/N/CRI/43)*

87. The representative of Nicaragua reported that in mid-2005, further to outbreaks of the disease *Citrus leprosis* in Nicaragua and Costa Rica, competent authorities from both countries had put in place a bi-national technical team responsible for the prevention and eradication of the disease as well as the maintenance of *citrus leprosis*-free areas. As a result, both national territories were under official control and the team had confirmed the presence of the *citrus leprosis* in the south of Costa Rica and in the north of Nicaragua, as well as the *citrus leprosis*-free status of south Nicaragua. South Nicaragua was where the commercial citrus fruits groves for export were located. A bi-national commission aimed at ensuring the continuity of both production and marketing of fresh citrus fruit between the two countries had also been established.

88. In assessing the risk of importing fresh oranges from Nicaragua, Costa Rica should have taken into consideration the scientific evidence available and the prevalence of the same disease in their own territory. The risk analysis by Costa Rica indicated mature fruits were not the pathway for the spread of the disease, hence imported fruits, which were mature, did not present any phytosanitary risk. No information was given on internal measures by Costa Rica to avoid the spread of the disease from the south to the north of Costa Rica. The adoption by Costa Rica of an emergency prohibition on imports from Nicaragua was not justified and more than required to maintain Costa Rica's appropriate phytosanitary level of protection.

89. The representative of Costa Rica indicated that the technical details of Nicaragua's concerns had only been received and would be conveyed to the appropriate authorities. The purpose of Costa Rica's notification was to facilitate trade between the two countries. Nicaragua complied with the requirements as its fresh oranges originated from a pest-free area and Costa Rica had not prohibited oranges entering from Nicaragua.

(d) Information on Resolution of Issues

90. The Chairman recalled the importance of providing reports on the resolution of issues in order to better track the effectiveness of the operation of the Agreement.

*Argentina's import restrictions on semen and bovine embryos due to BSE*

91. The representative of the European Communities reported that Argentina's import restrictions on bovine semen and embryos due to BSE had recently been lifted and that some EC member States had already benefited from this change.

#### **IV. OPERATION OF TRANSPARENCY PROVISIONS**

92. The Chairman drew attention to the most recent list of national notification authorities contained in G/SPS/NNA/9; the most recent list of national enquiry points contained in G/SPS/ENQ/19; an update of Members' implementation of the transparency provisions contained in G/SPS/GEN/27/Rev.15 and notifications received since the last meeting of the SPS Committee summarized, on a monthly basis, in G/SPS/GEN/590, G/SPS/GEN/592, G/SPS/GEN/593 and Corr.1, G/SPS/GEN/598, G/SPS/GEN/603, G/SPS/GEN/614 and G/SPS/GEN/616. Although two Members had recently notified an enquiry point and/or a national notification authority, there were still 19 Members who had not complied with these requirements.

93. The Secretariat reported on the development of the SPS information management system (SPS-IMS). All the specifications and technical descriptions were now completed and most of the structure and functions had been installed on the WTO server and tested. The Secretariat was now working out the transfer of all historic and current SPS documents, including notifications, GEN documents, reports of the Committee meetings and specific trade concerns. The SPS-IMS would be integrated into the overall WTO management system including documents online and the central registry of notifications. It was expected that by the end of the year the SPS-IMS would be accessible for Members to search all types of SPS documents and produce reports. Eventually, the SPS-IMS would also enable Members to enter their notifications electronically online.

94. The representative of Cuba suggested that Members be provided with a general overview of the database at the March workshop, so that both delegates from capitals and those participating in the workshop would become more familiar with it.

## **V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT**

95. At the meeting of 24 October 2005, the representatives of Cuba, Egypt, Kenya and India stressed that the Committee should first focus future work on the original proposals and any revisions to these and consider the elements identified in paragraph 43 of the Report on Special and Differential Treatment (G/SPS/35) as complementary to the discussions on the proposals. Revisions to the original proposals were being developed and would hopefully be submitted in advance of the February meeting.

96. The representative of the United States recalled that G/SPS/35, adopted by the Committee in June 2005, reflected the lengthy and careful deliberations of the Committee. Section 7 of the document, in particular, clearly set out the approach that the Committee should follow.

97. The representative of India, referring to the sixth bullet point of paragraph 43(d) of G/SPS/35, mentioned that the integration of SPS capacity-building into national development plans should be left for national governments to decide and requested clarifications on what was meant by that language. The representative of Kenya emphasized that the African Group had not commented on paragraph 43 of G/SPS/35 because the African Group thought it should first revise its proposals and then assess how the actions identified in paragraph 43 could help address the concerns identified in the revised proposals.

(a) Chairman's report on the informal meeting and on special and differential treatment

98. The Chairman reported that the informal meeting on special and differential treatment (S&D) held on 30 January 2006 had focused on the proposals referred by the General Council, possible elements for further work by the Committee identified in G/SPS/35 and Members' experience under the new G/SPS/33 procedure on transparency.

### S&D proposals referred by the General Council

99. With regard to the proposals referred by the General Council, the representatives of Egypt, Kenya and Cuba had recalled the mandate which the Committee had to discharge when reporting to the General Council by December 2006. They had referred to paragraph 44 of the Doha Ministerial Declaration, in which it was agreed that all S&D provisions would be reviewed with a view to strengthening them and making them more precise, effective and operational; and to paragraph 12.1 of the Doha Decision on Implementation-Related Issues and Concerns.

100. Several developing country Members had expressed the view that discussion of the elements in paragraph 43 of document G/SPS/35 should not replace discussion of the proposals referred by the

General Council. The proposals were still valid and the recommendations of paragraph 43 did not reflect all the concerns of developing country Members. In G/SPS/35 the Committee had also agreed to further discuss these proposals. Kenya, had stated that, *inter alia*, the lack of progress of discussions on the proposals had prevented the African Group from preparing revisions to their proposals. These revisions were expected to reflect on the consensus achieved within the Committee on some of the issues raised in the proposals.

101. The European Communities, recalling the short time available before December 2006, had expressed disappointment that no revised proposals had yet been submitted. A number of Members had considered that the work programme described in paragraph 43 provided a very good basis for identifying practical ways to address the underlying concerns of the developing country Members. If these were not addressed, there was an urgent need for developing country Members to clearly identify other underlying concerns. Until revised versions of the proposals were available, discussions should focus on adding substance to the recommendations in paragraph 43. The European Communities had noted, as one example, that there were concerns that the technical assistance provided did not address the real needs of developing country Members; it was the recipient countries that were in the best position to make specific suggestions to address this issue.

102. Canada had questioned the requests of some developing country Members to make certain provisions of the SPS Agreement binding although these provisions had never been invoked. Although Mexico recognized that provisions of the SPS Agreement which had not been used might still be of concern, before requesting that some provisions be made mandatory, developing country Members should think about why these provisions should be mandatory and the implications for all Members. The five groups of recommendations laid out in paragraph 43 addressed many of Mexico's concerns and it was of fundamental importance to Mexico that the Committee start discussing these recommendations without delay.

103. The European Communities had noted that although the special and differential treatment it granted was very specific and targeted, the recommendations in document G/SPS/35 could only be of a general nature to cover all situations. The European Communities had expressed the view that many elements of the original proposals had been taken into account in paragraph 43, and those not included would require changes in the text of the SPS Agreement. Although the European Communities considered that the Committee had agreed to not propose changes to the text of the SPS Agreement, Kenya disagreed and maintained that changes might be needed to fulfil the mandate of paragraph 44 of the Doha Ministerial Declaration.

#### Elements for actions by the SPS Committee

104. Several Members had noted that some steps had already been taken to address some of these elements. In response to a question about the progress of the establishment of enquiry points and national notification authorities in developing country Members, the Secretariat had informed the Committee about a JITAP programme aimed at strengthening the national enquiry points of sixteen African countries. There was also an STDF project underway to identify practical mechanisms to manage the flows of SPS-related information received by a Member, not only from the notifications but also from the IPPC, OIE and Codex contact points. In addition, a number of bilateral activities were providing aid specifically to enquiry points and notification authorities in developing country Members.

105. Chile and Cuba had mentioned that Members' answers to the questionnaires on technical assistance requested and delivered, circulated by the Secretariat were an important source of information about bilateral technical assistance programmes. These questionnaires, along with the sharing of information on bilateral technical assistance experiences, could be of help to other developing country Members with similar technical assistance needs. They had also noted that the

recommendations of paragraph 43 were very broad and needed to be attributed deadlines in order to be turned into action plans.

106. Kenya had asked for clarification on how the elements of the recommendations proposed in paragraph 43 had been identified. Recommendation (a) for instance, dealt with transparency, an issue that was already discussed by the Committee on an ongoing basis. I had noted that despite many workshops on transparency-related topics, some Members still had never notified any measure since 1995. The Secretariat had clarified that document G/SPS/35 was a decision adopted by the Committee. The content of paragraph 43 reflected the issues that Members had identified to be of concern to developing country Members. For instance, recommendation 43(a) was trying to address the fact that many developing country Members were not able to keep track of the ever-increasing number of notifications circulated, an issue directly linked to the lack of use of the G/SPS/33 mechanism. Recommendation 43(d) was trying to identify mechanisms to ensure that technical assistance provided was targeted to developing country Members' needs.

107. Referring to recommendations 43(a) and (b) addressing problems with the flow of notifications, the United States had suggested the possibility that international trade databases – such as that of the International Trade Center – could be consulted to identify whether a notification had an effect on a Member's products.

#### Review of G/SPS/33

108. The Chairman had reminded Members that when the Committee had adopted the procedure to enhance transparency of S&D treatment (G/SPS/33), it had agreed to review the procedure after one year. Members were invited to report on their experience with this procedure and the Committee would need to make a decision on the pursuance or modification of the procedure.

109. The European Communities had mentioned that it was the only Member to have notified under the G/SPS/33 procedure, although it was not uncommon for the delay before the application of a measure to be extended following a specific request from a developing country Member. The European Communities had observed that many developing country Members apparently had difficulties anticipating the effect of a measure at the drafting stage; when comments were received from developing country Members, it was mostly after the measure had been put in place. At that stage, it was much more difficult to provide any flexibility. Issues identified in paragraph 43(a) and (b) of G/SPS/35 were directly linked to this problem.

110. China had suggested that to help developing country Members keep track of the measures of interest to them, Members should more often notify when a measure was actually implemented. Cuba had noted that the SPS database that the Secretariat was developing could be a useful tool for developing country Members to analyze notifications properly and in a timely fashion. Several developing country Members had emphasized the need to strengthen Members' enquiry points and the coordination between the various governmental agencies involved.

111. Taking into account the fact that the G/SPS/33 procedure had been sparsely used, at the informal meeting Members were of the view that one year was too short a period to assess its usefulness. It was suggested that the Committee agree to extend the procedure as is, and review its operation by the first meeting of the Committee in 2008. It was recalled that Members could, at any meeting, raise any issue related to the procedure under the agenda items on Special and Differential Treatment or Transparency.

(b) Consideration of further actions by the Committee (G/SPS/35)

112. The Secretariat provided a draft programme for the special workshop on the implementation of the SPS Agreement originally scheduled for October 2005, but postponed to 31 March 2006. The workshop would focus on some specific actions that might be taken at the national level to make better use of the SPS Agreement. The results from an STDF-funded project on effective national SPS-related coordinating bodies and ways to screen and make use of the notifications would be presented at the March workshop. Funding for the workshop was coming from the WTO Global Trust Fund.

113. The representative of the European Communities reported that the European Communities was in discussions with the African Caribbean and Pacific (ACP) countries on a European development fund for 2008-2013. The core of the discussions would be the Millennium development goals. This fund was mentioned in relation to the discussions on whether aid should be donor driven or needs driven. The European Communities encouraged ACP countries to use this opportunity to submit ideas to address their SPS concerns.

114. The representative of Cuba encouraged Members to make counter-proposals to those put forward by the African Group and other Members. Work on the basis of the suggestions in paragraph 43 could not substitute for an analysis of the specific proposals put forward by developing countries and primary attention should be given to these proposals to achieve concrete recommendations by December 2006. Nothing concrete or specific had come out of the previous informal discussions and there was a need for more focussed discussions.

115. The representative of Canada noted that although paragraph 43 might not encompass all of the underlying concerns that the proponents of the various proposals have been trying to address, it provided a constructive basis for practical discussions which should be particularly useful for developing and least-developed country Members. To encourage practical and focussed discussion on solving real S&D-related problems, Canada proposed that the points identified in paragraph 43 of the report be included as a standing agenda item for future Committee meetings.

116. The representatives of Mexico and of Barbados observed that it was clear from paragraph 44 of G/SPS/35 that the Committee did not establish any priority between consideration of proposals from certain Members and paragraph 43. Both forms of actions could proceed in parallel, neither one should be a condition for discussing the other. The representative of the United States recalled that some Members had indicated their intention to revise some of the proposals, and suggested it could be helpful to know the status of these revised proposals prior to the meeting. The representative of New Zealand noted that the actual deadline to propose recommendations was June 2006.

117. The Committee agreed to hold an informal meeting on special and differential treatment prior to the March regular meeting of the Committee. He proposed a format for the informal meeting which outlined the balance that would be required for these issues.

(c) Review of implementation of G/SPS/33

118. The Committee adopted the Decision to extend the Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Countries (G/SPS/33/Add.1).

## **VI. EQUIVALENCE (ARTICLE 4)**

### **(a) Information from Members on their experiences**

119. No information was provided by Members on their experiences in seeking or granting recognition of equivalence.

### **(b) Information from relevant observer organizations**

120. The representative of the IPPC had reported at the June 2005 Committee meeting that the Interim Commission on Phytosanitary Measures had adopted an international standard for phytosanitary measures on Guidelines for the Determination and Recognition of Equivalence of Phytosanitary Measures. Recognizing the importance placed on this subject, an explanatory document had been developed to support this standard and was near completion.

## **VII. REGIONALIZATION (ARTICLE 6)**

### **(a) Report on informal meeting on regionalization**

121. The Chairman observed that a number of Members had requested that an "enhanced" informal meeting be organized on regionalization. This was done, and the Committee had heard presentations on their experiences from 15 Members: European Communities, Sweden, Brazil, Japan, Colombia, Argentina, Peru, the Netherlands, Germany, Canada, Chile, Mexico, Ecuador, Egypt and the United States. The Committee also benefited from presentations from representatives of the OIE and the IPPC.

122. Many presentations had provided details regarding importing and exporting Members' experience with implementing the concept of regionalization. From the exporting Members' perspective, investments in obtaining, and maintaining, recognition of pest- or disease-free status could be substantial and require considerable time. Many Members had noted the difficulty in committing to such long-term and sustained investments if recognition by their trading partners is unpredictable.

123. From the importing Members' perspective, risks associated with potential introduction of pests and diseases merited cautious approaches to recognition of pest- or disease free status. Many Members stressed that over time and through repeated interactions, mutual trust between trading partners could increase, thus substantially facilitating bilateral recognition of pest- or disease-free status. In addition, experience with high quality veterinary and plant health services and effective monitoring and surveillance of the exporting Member enhanced an importing Member's willingness to recognize promptly pest- or disease-free status.

124. The Chairman identified four themes which had arisen in presentations and were further developed in the Committee discussions: (a) the recognition of regions by international standards-setting bodies and by Members; (b) procedures and guidelines for the implementation of recognition of the concept of regionalization; (c) predictability (or undue delays) and (d) transparency.

125. With regard to the current and proposed recognition by the international standards-setting bodies (ISSBs), the ways in which recognition by the OIE or IPPC affected bilateral recognition of pest- or disease-free status was highlighted as an important area in need of further clarification. Both the OIE and IPPC had described recent work within their organizations which was in direct response to requests from the SPS Committee for guidance in this area. Given the relevance of the work being carried out by the ISSBs, some Members indicated that it might be useful to further coordinate understandings of work by the OIE and IPPC at the next SPS Committee meeting with a view to

avoiding duplication of efforts. The IPPC had highlighted a series of questions which would be considered by a working group on the feasibility of international recognition of pest-free areas. Several Members had noted that input from the OIE on these questions, particularly those relating to legal issues, might also be useful.

126. Regarding the second theme, procedures and guidelines, Members had recalled the long history of discussion in the Committee on this topic. Some Members recognized that harmonization of procedures in this area, including the clarification of roles, could improve the recognition process, enhance predictability and thus facilitate the implementation of Article 6. Some Members had suggested that as a first step in development of this type of guidance, the Committee could distinguish between administrative and scientific steps in the recognition procedures. Others had noted the inter-relationship between administrative and technical issues, and the difficulty of trying to separate these. Several Members had called for the establishment of a working group, with the assistance of the Secretariat, to consider the development of administrative guidelines.

127. The issue of predictability, or undue delays, had received significant attention from Members in the informal meeting as well as in other recent Committee discussions on regionalization. A number of Members continued to stress the need for the development of timeframes by the Committee, particularly given the need to predict future benefits when considering investments in human resources and infrastructure. Other Members had noted that the issue of administrative delays arises horizontally across many different aspects of Committee discussions, including in the context of the Review of the Implementation of the SPS Agreement, and therefore argued that this issue merited a broader discussion. Japan had reiterated its opposition to the establishment of timeframes for the recognition of regionalization.

128. Under the theme of transparency, several issues had arisen in the discussions, including Chile's proposal for notification of requests for recognition of pest- or disease-free status. The European Communities had also highlighted the need to enhance confidence between trading partners, and in this regard encouraged the OIE to advance in its work on the evaluation of veterinary services. The United States had noted that it used the current notification procedures to inform Members of actions on Article 6. The IPPC had highlighted the possible development of a database which would collect data on recognized pest-free areas and areas of low pest prevalence. The Chairman had encouraged Members to consider what types of transparency would be useful in clarifying timeframes and building confidence.

129. Unfortunately, the Committee had ran out of time to continue the animated discussion on regionalization at the informal meeting. The Chairman had suggested that Members should work together in various configurations to identify ways to address the concerns that were discussed, and to seek ways for the Committee to move forward on this issue.

130. The Secretariat would prepare a document summarizing the key elements of the presentations with a compendium of all the presentations (G/SPS/R/38).

(b) Discussion of issues related to the operation of the provisions of Article 6

131. The representative of Brazil mentioned that a number of Members were interested in formally setting up a working group, with the involvement of the Secretariat, to draft a proposal for guidelines to enhance the application of Article 6.

132. In response to queries, the Secretariat noted that the Committee's Rules of Procedures (G/SPS/1), based on those of the General Council, made provisions for special meetings of the Committee but no reference to working groups.



133. Many Members suggested a working group could group progress in the development of guidelines and avoid the multiplication of proposals. Cuba proposed that the working group consider predictability, transparency and the strengthening of the Committee's relations with the international standard-setting bodies.

134. Other Members considered a formal working group unnecessary for the development of guidelines without time-frames. Should a working group be established, its terms of reference should clearly limit its scope to guidance in respect to the existing Article 6 provisions.

135. The Chairman observed that the Committee's discussions had evolved around the issue of whether a procedure or a guideline was technical or administrative, scientifically-based, whether a time-frame could be associated with it and how that time-frame would be established, but there had been no focussed discussion on procedures. Without an understanding of the nature of those procedures, it could be difficult to set time-frames. The OIE and IPPC had worked expeditiously to develop guidelines at the request of the Committee, and the Committee could examine those guidelines to better understand the process leading to a decision of recognition of regionalization. Members could also compare their own procedures of recognition with those of the IPPC and OIE to determine gaps and overlaps. These comparisons, as well as four elements identified by the Chairman, could serve as the focus of discussions in March.

136. Many Members were of the view that the work of the OIE and IPPC was sufficiently mature to permit the Committee to discuss procedures. They considered that the four issues identified by the Chairman, similar to those identified by Cuba, provided a good basis to identify the main steps Members should follow in determining regionalization. This exercise would help identify if additional work was needed from the OIE and the IPPC. The representatives of Argentina and Brazil emphasized that agreement on time-frames was the only way to solve the issue of undue delays. The European Communities suggested the submissions from the OIE and IPPC could help assess to what extent the standard-setting bodies could provide guidance to the SPS Committee. However, several Members noted that the IPPC work towards international recognition of pest-free areas was slow and fraught with problems, while the results of OIE work were mixed.

137. The United States, New Zealand and Australia recalled that fundamental issues pertaining to regionalization, including those listed by the IPPC in Annex 1 of G/SPS/GEN/626, were under discussion in the OIE and IPPC. The resolution of these issues could provide guidance for the development of an effective response to regionalization problems. The representative of Korea noted that Article 6 had to be balanced with Article 2, and Members needed to determine the confidence to put in the standard-setting bodies.

138. The representative of Mexico stressed that the goal was to achieve a common understanding how Article 6 should be applied, and discussions should be as transparent and inclusive as possible. He suggested that the new proposals on regionalization should be considered at the next meeting, as this discussion could lead to some convergence of views.

139. Some Members requested the Secretariat to prepare a document for the March meeting including a compilation of all the ideas and proposals received from Members, the OIE and IPPC and a flow chart with steps to help reach a common understanding of the way Article 6 should be applied. The Chairman recalled that the Secretariat had agreed to prepare a report of the enhanced informal meeting that would include summaries of each of the 15 presentations, as well as a list of all documents relating to regionalization from Members and Observers. Should time permit, the Secretariat would prepare a background paper as requested.

140. Several Members invited any Members interested to work with them to draft clear guidelines for the application of Article 6, building on the steps identified in the documents submitted, the

concerns voiced by Members, and the four elements identified by the Chairman. The document could include more contributions from Members in the future and should be submitted to the Committee for the June meeting.

(c) Information from observer organizations regarding their work on regionalization

141. The representative of the OIE stated that OIE was keen to advance the development of standards for regionalization. The OIE mandate was to develop and publish international standards but not to police the implementation of standards. The OIE Terrestrial Animal Health Code and Aquatic Animal Health Code chapters on zoning and compartmentalization were adopted international standards on regionalization that should form part of the basis for discussions. To date, no comments on the existing international standards had been received by the OIE. These standards resulted from discussions in the SPS Committee during 2005, and they contained guidance to Member countries on how to establish a region or zone or compartment, and how to pursue agreement on distinct disease status with trading partners. Progress on the standards could only occur through contributions from Members. By March, both the Terrestrial Code Commission and the Aquatic Code Commission would have held meetings at which comments from Member countries on those standards would be addressed. The OIE General Session in May provided another occasion to discuss those standards.

142. The representative of the OIE noted that document G/SPS/GEN/625 described OIE's activities in zoning and compartmentalization. OIE considered these concepts as synonymous with regionalization because they all involved separation of subpopulations of animals based on a distinct health status. Subpopulation could be separated by natural or artificial barriers or, in the case of compartments, by management. OIE was currently gave official recognition for four diseases. The General Session in May would discuss future OIE activities in this regard and with regard to the evaluation of veterinary services. OIE had been asked to identify the options for progressing on regionalization and the implications including resource and legal implications for discussion at the May General Session. The IPPC list in Annex 1 of G/SPS/GEN/626 laid out many of the issues. OIE was developing further concepts of compartmentalization that could be a valuable tool for developing countries to improve their disease status.

143. The representative of the IPPC reported that at the last ISPM meeting, top priority was given to the development of a generic standard on the recognition of pest-free areas. The draft standard developed by the Expert Working Group in October 2005 recommended a procedure that could be followed. It would be reviewed by the Standards Committee in May, then be circulated for country consultation in June. The Standards Committee would meet in November 2006, and the standard would be presented for adoption at the meeting of the CPM in April 2007.

144. The IPPC was also doing a feasibility study on the international recognition of pest-free areas. A focus group had met in July 2005 and developed the terms of reference for a working group to undertake the feasibility study (Annex 1 of G/SPS/GEN/626). These would be presented for adoption at the first CPM in April 2006.

145. The representative of Chinese Taipei reminded the Committee and the IPPC that the opinions of Members who might not be able to participate in the technical drafting should also be taken into account. when developing international standards on regionalization. He encouraged OIE to also provide an equal opportunity for all Members to participate in the development of international standards. The representative of OIE noted that Chinese Taipei participated in OIE activities and several Chinese Taipei experts were members of OIE expert groups.

146. The representative of Codex observed that regionalization was not particularly relevant in the protection of consumer health as measures taken to protect the health of people applied everywhere

and were not related to a notion of prevalence. Codex had guidelines for risk analysis application within Codex but did not provide guidance to governments on risk management and risk analysis in general. Guidelines for the application of HACCP were part of the Codex general principles of food hygiene. The concept of regionalization had been discussed in the Committee on Food Hygiene in relation to prevalence of microbiological pathogens, and would be taken into account when developing principles and guidelines for microbiological risk management.

## **VIII. TECHNICAL ASSISTANCE AND COOPERATION**

### **(a) Information from the Secretariat**

147. The Secretariat reported on the five regional workshops which had been held since the June 2005 meeting. The first, which had benefited from additional funding from the UK Department for International Development, had taken place on 1-5 August 2005 and had involved members of the Southern African Development Community (SADC). The second activity had been delivered by the Secretariat to Francophone West African countries on 3-7 October in Mali. A similar workshop for South-East Asian nations had been delivered in Thailand on 10-14 October 2005. These two workshops had been organized within the framework of collaboration with the OIE on training of trainers. The OIE had provided additional in-depth training for veterinary officials from the region back-to-back with the SPS workshops. Another regional workshop had been held in Fiji on 21-24 November for Pacific Island Members. A regional workshop in Nicaragua, from 30 November to 2 December had benefited from the assistance of the Inter-American Institute for Agricultural Cooperation (IICA), the International Development Bank and the US Department of Agriculture, as well as participation by the European Communities.

148. The Secretariat expressed its thanks to Codex, OIE and IPPC for their involvement in the regional activities of the WTO Secretariat this year and, hopefully, next year. The technical assistance plan of the WTO Secretariat for 2006 had been adopted and included three regional workshops, again in collaboration with the OIE, for countries of the Middle East (in Egypt in June), Latin America (in Colombia in the fall) and the Commonwealth of Independent States (in July) (WT/COMTD/W/142).

149. With regard to the national SPS seminars, the Secretariat had outstanding requests from Egypt and Rwanda, as well as new requests from Cuba and Ethiopia. Requests for national workshops should be addressed to the Director of the ITTC Division.

150. Other technical assistance activities of the WTO Secretariat included ongoing collaboration with in-house colleagues on the Joint Integrated Technical Assistance Programme (JITAP) for sixteen African countries. Within this programme, workshops had been held in Zambia and in Benin, at which FAO had also demonstrated its International Portal on Food Safety and Animal and Plant Health. Other technical assistance delivered included a training for the Members of the Iraqi National Committee in Geneva and a briefing of Thai officials. A distance learning course in Spanish was under development in collaboration with IICA.

151. With regard to the Standard and Trade Development Facility (STDF), document G/SPS/GEN/595 gave an update on the operation of the STDF, specifically the decisions which had been taken at the June meeting of the Policy Committee and the Working Group. Five projects and six project preparation grants had been approved in June, including a pest risk analysis workshop currently going on in Canada, for which the STDF had been able to provide funding for developing country officials to attend.

152. The Working Group would meet again on 3 February and consider proposals for 14 projects and four project preparation grants. Total requests for STDF projects amounted to US\$ 9.3 million

whereas the STDF currently had US\$ 2.1 million of funds available. Contributions to the STDF had been renewed by Denmark and France and new donors included the United States and Sweden. Fifteen projects and 16 project preparation grants were currently underway. An evaluation of the STDF had been conducted in 2005 and would be discussed by the Working Group. A number of STDF projects were approaching completion and it was the Secretariat's intention to form the Committee on the results of these projects, as well as on the results of the evaluation.

153. The Secretariat further reported to the Committee on the specialized training course held in Spanish at the WTO from 31 October to 11 November 2005. This course had been developed to respond to Members' requests for more practical in-depth training as echoed in paragraph 43 of G/SPS/35. It had been organized by the WTO Institute for Training and Technical Cooperation in close collaboration with the Agriculture and Commodities Division and the Inter-American Institute for Cooperation on Agriculture (IICA) and financed out of the regular budget. A total of 21 participants, 18 from Latin America and the Caribbean, two from Africa and one from an economy in transition, had attended the course.

154. The course, of a participatory nature, had been designed for SPS specialists with an advanced degree of familiarity with the SPS Agreement and was innovative in certain respects. It had benefited from intensive preparatory work, including an early announcement at the SPS Committee, a careful selection of the appropriate participants and on-going correspondence with them. A prerequisite to the selected candidates' participation was completion of a questionnaire on the implementation of the SPS Agreement in their countries. The first week of the course focused on some general information about the WTO; creating awareness at the national level; improving domestic, regional and international coordination; and leadership. The second week was dedicated to specific SPS provisions, Committee work, dispute settlement and technical cooperation. A one-day workshop on communication skills, delivered by an external trainer, had been included. Presentations were given by WTO and IICA staff, course participants, special guest speakers from developing and developed Member countries, the Advisory Center on WTO Law and the World Bank. The coaches, two individuals with extensive experience in the SPS area, had played an important role throughout the course. Participants had been asked to develop and present a "practical action" to concretely address at least one of the implementation problems they had identified. Main topics covered were transparency, coordination, and capacity building.

155. As a follow-up to the course, a webpage had been developed for participants to provide updates every two months on their implementation of the lessons learned at the course and any other relevant information. A stock-taking meeting with participants was also planned, possibly in connection with the June 2006 SPS Committee meeting. Participants had provided useful inputs on the evaluation of the course through weekly and final evaluation forms, a final evaluation session, through informal comments. Ninety per cent of the participants had rated the activity as successful or very successful. Not enough feedback had been received from the participants to date and the Secretariat strongly encouraged them to make use of the "follow-up" website to provide information on how they had been able to use their experience upon return to their capital.

156. A second specialized course would be held in English, back-to-back with the Committee meeting in the fall. Information on this course would be provided during the March meeting and a call for candidates circulated in the spring. The Secretariat noted that many delegates from Member countries had played key roles in the delivery of this course and called on them to similarly assist in the preparation of the English specialized course in the fall of 2006, and possibility a French language course in 2007.

157. Participants in the specialized training course expressed their gratefulness to the Secretariat and IICA for a well-planned, well thought-out, interesting and practical workshop which had provided a fruitful opportunity for exchanges of ideas and notes. The course had also provided tools to raise

national awareness from the decision making level down to the technical level. Many delegates emphasized that the questionnaire on policies at national level was useful in preparing them for the workshop. Mexico stressed the critical importance of making sure that the knowledge gleaned during the workshop was quickly and exhaustively shared with other relevant government offices in order to multiply the effects of the workshop.

158. The Chairman noted that this specialized training course was an effort by the Secretariat to try to be more precise, effective and operational in delivering technical assistance. Appreciation of this effort had been eloquently expressed by the participants.

(b) Information from Members

159. The representative of the European Communities informed the Committee that two seminars, one for African countries and one for Caribbean and Pacific countries, would be organized in Brussels in spring 2006 to assist developing countries become more familiar with the EC legislation on imports of agricultural products and on implementation of HACCP systems in EC food processing establishments.

160. The European Communities would also organize, for the second time, two technical workshops for developing and least-developed countries in spring and summer 2006 on residues and aflatoxins. The residue workshops would target laboratory specialists and would provide training on laboratory skills and control plans for residues in third countries, EC and international legislation. The aim of the two-week aflatoxins workshop would be to provide in-depth information on EC legislation on food contaminants as well as on the methodology applied to control aflatoxins and ochratoxin A content in food. This workshop would also provide an occasion to build a network for further technical scientific cooperation between developing countries.

161. The European Communities also intended to provide technical assistance to developing countries in the field of avian influenza. This training would take place in Europe and would provide information on management of diseases and laboratory training.

162. The representative of the European Communities provided information on several other EC technical assistance programmes applied in developing countries to control and eradicate certain animal health diseases that had an important impact on their trade and to confine these diseases so that trade can take place from other regions. The Southern Africa Development Community (SADC) Foot and Mouth Disease Programme, which would run for four years as of 2006, was aimed at reducing FMD occurrence in the region and better equipping and training the regional competent authorities for FMD epidemiological surveillance and export certification. The objective of the Pan-African Programme for the control of epizootic diseases was to strengthen national and regional capacities to assess the economic impact of animal diseases and to generate appropriate programmes for their control. This aspect of the programme had already been successfully implemented in the case of rinder pest. The purpose of the Promotion of Regional Integration in the SADC Programme, running until 2007, was to strengthen the surveillance network for some diseases and support the OIE work. In addition, several EC technical assistance projects were currently running in Asia with the objective of improving the animal health situation via increasing the regional cooperation in the planning and management of the veterinary services, the marketing of livestock and the implementation of animal disease control programmes. These programmes illustrated the EC support to the proper implementation of the regionalization provisions of the Agreement.

163. The representative of Japan reported on Japan's emergency assistance on avian influenza for affected Asian regions, building on the successful eradication of avian influenza in Japan. Donations would be made to the OIE and FAO to strengthen veterinary services, notification systems and the effective control of outbreaks in Asia.

(c) Information from Observers

164. The representative of Codex recalled that documents G/SPS/GEN564 and G/SPS/GEN/565 provided information on the technical assistance activities offered by the FAO and the WHO up to June 2005. Furthermore, the FAO and the WHO trust fund to facilitate the attendance of developing country Members at Codex meetings had been in operation since mid-2004. The deadline for submission of applications for funding in 2006, to be submitted through the local Codex contact points to the WHO secretariat, was 31 October 2005. Requests for 2006 from countries which had already benefited from the trust fund the previous years would only be considered after receipt of the countries' activity report of the previous year(s).

165. The representative of the WHO reported that the trust fund had supported around 200 participants from around 80 countries to attend 14 Codex meetings. The fund had also held a two-day training session on enhancing participation in Codex activities in Latin America and the Caribbean, to provide participants with a strategy for their effective participation. For 2006, requests had been received from 90 countries to support the attendance of 165 delegates at 16 Codex meetings and to conduct four additional training sessions.

166. The representative of the World Bank reported on an e-learning course held in 2005. This course would be offered again in 2006 and the number of applicants already outnumbered the serving possibilities. The course was co-sponsored by USAID. Delivery of a French or Spanish version of the course was very difficult due to the lack of competent teachers fluent in either language. To assist countries to formulate their priorities, the World Bank was preparing action plans at country level for capacity building in the SPS field. A plan for Vietnam was now available, and seven other plans were in preparation.

167. The representative of the IPPC highlighted the success of the recent International Plant Health Risk Analysis Workshop that had taken place in Canada in October 2005. This workshop, jointly organized by the IPPC secretariat and the Canadian Food Inspection Agency (CFIA), had been attended by 145 delegates from more than 60 countries and eight regional and international organizations. Funding provided by the STDF, the CFIA, the Canadian International Development Agency, the USDA and the International Research and Development Center, had allowed 50 delegates from least-developed, low income and developing countries to attend. The workshop had brought together risk assessors from around the world to address pest risk analysis-related issues. The workshop had also provided training and tools to countries with little knowledge or capacity to carry out pest risk analysis. Feedback received from participants indicated that the workshop was highly relevant and informative. The IPPC secretariat was grateful for the funds and organizational support provided, since the regular IPPC budget did not provide for the organization of such workshops although they were of great value.

168. The European Communities emphasized that the level of interest generated by this workshop illustrated the need for more such workshops providing opportunities for experts from various countries to meet and exchange views, and invited the IPPC to organize further activities of this kind. The representative of Canada expressed hope that this workshop would better enable developing countries to conduct pest risk assessment and manage risks more effectively. Canada also hoped that similar workshops would be held in a variety of locations in the future and would further benefit from STDF funding. The representative of Trinidad and Tobago mentioned that his region had benefited from three workshops organized by the IPPC last year, one on development of standards, one on the difficulties to implement standards and an information exchange on the use of the IPPC portal.

169. The representative of Chile reported that a workshop on food protection, safety and international trade had been held in December in Costa Rica and the recommendations that emerged from that workshop could be found on the FAO webpage.

170. The representative of Argentina mentioned that as, in her country, people attending technical assistance activities were experts in the topic discussed but did not draft standards, a two-week exercise with the technical experts of the field and the technical experts for standards could be useful to ensure that both the risk analysis and the standards were compliant with the SPS Agreement. Along with Chile and Brazil, she also highlighted the importance of the follow-up of technical assistance activities, putting into practice the knowledge gained at national level.

#### **IX. ISSUES ARISING FROM THE REVIEW OF THE OPERATION OF THE SPS AGREEMENT**

171. The representative of New Zealand proposed that the Committee should further discuss the relationship between the international standard-setting organizations and the SPS Committee (G/SPS/GEN/179). In light of comments received, New Zealand would amend its paper to further focus discussions in the future.

172. The representative of Costa Rica proposed that the Committee consider the establishment of detailed procedures and time-frames for the trade concerns submitted to the Committee and for the use of the good offices of the Committee chairperson in order to make the mechanisms established in paragraph 12.2 of the SPS Agreement more effective (G/SPS/W/183). Costa Rica also proposed to increase the participation of developing countries and LDCs to the SPS Committee in order to allow a greater number of Members to understand and make use of these mechanisms to resolve their trade concerns. The theme of undue delays should also be further examined (G/SPS/W/180).

173. The representative of Mexico emphasized that the themes identified in document G/SPS/W/183 had also been raised by Mexico, and considered paragraph 4 of this document to have particular importance. The representative of the OIE recalled that the OIE dispute settlement mechanism was a technical system that did not create legal precedents. The system required the agreement of both parties in advance and the outcomes were not legally binding, but they could be referred to in a WTO dispute.

174. The representative of Brazil noted that some of the proposals in document G/SPS/W/182 had been discussed at this meeting, such as the need to clarify the relationship between the SPS Committee and the standard-setting bodies. The impact of undue delays on access to export markets should be further discussed.

175. The Chairman recalled that this had been the first opportunity to discuss topics arising from the Review of the SPS Agreement (G/SPS/36). When the submissions on a topic warranted, an informal meeting or other appropriate means for further discussion would be scheduled.

#### **X. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA**

176. The Chairman recalled that in accordance with Paragraph 18 of the Protocol of Accession of the People's Republic of China, the SPS Committee is to undertake an annual review for eight years of the implementation by China of the SPS Agreement. He opened the floor for comments or questions from Members.

177. The representative of the European Communities noted with satisfaction the increased cooperation between China and the European Communities on SPS issues and mentioned that a Memorandum of Understanding with China on SPS issues was being finalized. However, the European Communities would welcome further improvement in the currently limited access to the Chinese market for EC food products. Although the number of SPS notifications made by China to

the WTO was increasing, Chinese regulatory measures still appeared sometimes to be non-transparent due to the lack of a formal legal framework.

178. The representative of the European Communities indicated two market access areas where enhancement of cooperation was needed: removal of the current BSE-related ban on certain ruminant derivative products from the European Communities and a greater flexibility on the approval procedure for listing of EC establishments eligible to export products into China.

179. The European Communities had welcomed on previous occasions at this Committee the compliance of China's import policy for EC bovine semen and embryos with the World Organization for Animal Health's (OIE) standards on BSE. The European Communities wanted to take the opportunity of this Transitional Review to remind China that at the 2005 OIE annual meeting significant changes to the OIE Terrestrial Animal Health Code chapter on BSE had been made, in particular to the recommendations for the trade in beef and blood and blood products. Based on scientific information provided by world experts, the OIE Code Commission had recommended that deboned skeletal muscle meat be in the list of commodities which, under certain conditions, could be safely traded regardless of the BSE status of the exporting country. The European Communities invited China to implement these new OIE recommendations.

180. China's current system of approval of EC establishments eligible to export bore some similarities with the EC system with one major exception: China's request for a veterinary inspection mission to take place for every EC establishment, not only meat establishments but also bovine semen and embryo production sites, wishing to export to China for the first time. The European Communities did not require that an inspection mission be sent to China every time the Chinese authorities wished to add a new establishment to the list of establishments eligible to export to the European Communities. The European Communities applied to China (and other WTO members) a procedure based on the guarantees provided by the competent authorities of the exporting country regarding the safety of the food chain (from farm to fork) rather than based on individual exporting establishment inspection. The European Communities invited China to take a reciprocal approach and allow EC establishments to apply for pre-listing of establishments once the entire EC food safety system was assessed as satisfactory by the Chinese competent authorities.<sup>2</sup>

181. The representative of the United States recalled that this was the SPS Committee's fourth annual transitional review of China's efforts to implement the commitments it has made in its Protocol of Accession to the WTO. The transitional review remained an important and useful mechanism, serving both the interests of China and the interests of other WTO Members as it provided Members with the opportunity to seek clarifications regarding China's policies and practices. China, in turn, had the opportunity to clarify these policies and practices in order to prevent misunderstandings that could lead to trade frictions. The transitional review mechanism also allowed Members to convey to China their views, expectations and concerns regarding China's efforts to comply with its WTO obligations. China then had the opportunity to explain its views and to inform Members about how it had addressed their expectations and concerns. The transitional review mechanism was therefore an important and useful exercise of transparency, one of the fundamental principles underlying the WTO Agreement.

182. The representative of the United States further indicated that in its submission for the 2005 transitional review (G/SPS/GEN/594), the United States had presented China with written questions covering a number of areas, including (1) China's BSE-related bans on US beef and low-risk products; (2) China's fire blight restrictions on US apples, pears and plums; (3) quarantine inspection permit procedures; (4) China's zero pathogen requirements on meat and poultry products; (5) inappropriate avian influenza restrictions on US poultry and (6) inadequate regulatory transparency. The themes

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<sup>2</sup> See document G/SPS/W/178.



underlying these questions continued to be the same as those underlying the submissions made at the three previous transitional reviews. As shown in documents G/SPS/W/126, G/SPS/W/139 and G/SPS/W/153, the United States had consistently raised concerns regarding: (1) China's failure to notify numerous SPS measures; (2) the lack of transparency in China's application of SPS measures and (3) China's imposition of requirements that appear to have no basis in science. These concerns were most evident in two issues raised in the United States 2005 submission, namely China's BSE-related bans and China's fire blight restrictions.

183. The representative of the United States further noted that, with regard to BSE-related issues, the United States' strongest concern involved China's BSE-related ban on US beef. China had provided virtually no information to the United States on the basic regulatory framework under which it would make science-based decisions to consider the US request for China to lift this ban. Dozens of countries had lifted their bans on US beef. Each of them had, at a minimum, provided the United States with a detailed explanation of the regulatory steps necessary to make a decision on the US request to lift the ban. It was now 22 months since China had imposed its ban on US beef, and China had still not offered any explanation of its actions or the necessary regulatory steps for lifting the ban. The United States strongly urged China to take steps to ensure that its regulatory authorities quickly address this problem.

184. The United States was also concerned that China maintained a *de facto* BSE-related ban on low-risk, non-ruminant origin products from the United States, including pet food, rendered products, porcine proteins and spray-dried blood, although these products should never have been banned under existing OIE guidelines. The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) had issued a notice in September 2004 conditioning the lifting of this ban on the conclusion of an import protocol. The United States and China had signed an import protocol shortly thereafter in November 2004, but China had since insisted on a series of additional information requirements that were onerous, detailed, unnecessary, not science-based and still inconsistent with OIE guidelines. They also contrasted sharply with US requirements for products of animal origin from China. The United States urged China to immediately remedy this situation.

185. Another important concern of the United States related to China's continuing fire blight-related ban on imports of US apples, pears and plums. As stated in the June 2005 Committee meeting, the United States encouraged all Members to review carefully their restrictions on these US fruit products in light of the decision of the Appellate Body in *Japan – Measures Affecting the Importation of Apples* (WT/DS245/AB/R). China was one of the Members that maintained these restrictions. It was important that China moved quickly to modify its ban to allow the importation of mature symptomless fruit, consistent with the *Japan-Apples* decision.

186. In its written questions, the United States had also expressed ongoing concerns on several other matters which had been raised previously in this Committee including: (1) onerous quarantine inspection permit procedures; (2) zero pathogen requirements on meat and poultry products; (3) inappropriate avian influenza restrictions; and (4) inadequate regulatory transparency, especially with regard to regulations of major scope. The United States noted that it would like to see more progress in these areas.

187. The representative of Australia noted that Australia valued its strong relationship with China and continued to make efforts to strengthen communication and cooperation with China on SPS matters. Australia appreciated China's efforts to develop and improve its quarantine and inspection systems and to ensure that quarantine procedures were based on risk assessment and sound scientific evidence. While Australia understood the challenges China faced, it continued to encourage China to bring its systems fully into compliance with the SPS Agreement as quickly as possible, including ensuring consistency and transparency in its development and administration of SPS measures, at both

a national and provincial level, as well as conformity with notification obligations under the SPS Agreement. This would benefit China and all WTO Members.

188. The representative of Australia further observed that Australia had been pleased to offer a significant amount of technical assistance to China, to assist development of its SPS capabilities and systems, and would continue to do so. Australia was continuing to pursue a number of bilateral SPS issues with China, some of a long-standing nature. Australia looked forward to early resolution of these issues to allow bilateral trade to expand to the mutual benefit of China and Australia.

189. The representative of China thanked the European Communities, the United States and Australia for their comments and questions. He expressed his appreciation for the technical assistance provided by Australia in the SPS area and welcomed any further technical assistance in this area. He further mentioned that, in response to the call from the chairperson of the General Council, China, as many other WTO Members, had shifted its resources and efforts to the new negotiations. As a consequence, no capital-based delegation was available to assist him today. However, he was willing to provide the following information and responses to the comments and questions raised by the European Communities and the United States under the framework of Paragraph 18 of China's Protocol of Accession.

190. In relation to transparency, since its accession to the WTO China had notified 140 SPS measures promulgated before China's accession to the WTO. From 2002 to 2005, China had circulated 94 notifications to the WTO Secretariat which provided Members with a comment period of 60 days calculated from the date of circulation of the notification by the Secretariat, as requested in China's proposal on transparency (G/SPS/W/131 and corrigendum). In China, the Ministry of Commerce of the People's Republic of China (MOFCOM) had established mechanisms to enhance coordination among ministries and agencies responsible for SPS measures and had already organized various meetings, workshops and training courses on notifications for officers from relevant ministries and agencies. These actions had greatly improved the SPS measures notification process in China. Moreover, MOFCOM, together with AQSIQ, had drafted and adopted guidelines on notification of SPS measures.

191. With regard to the seven decrees promulgated by the State Environmental Protection Administration (SEPA), they were not SPS measures but some sort of regulations on registration of dangerous chemicals. Therefore, China had not notified them under the SPS Agreement.

192. Regarding BSE-related international standards, China's SPS measures were drafted in a manner fully compliant with the SPS Agreement and were harmonized with the international standards of the three international standard-setting bodies of reference. China had lifted its previous bans on importation of bovine semen, bovine embryos and non-protein fat from countries affected by BSE, according to Chapter 2.3.13 of the OIE Terrestrial Animal Health Code, on the basis of scientific studies carried out together with other countries, such as Canada. Since China did not participate in the drafting of OIE standards, China's decision to adopt a new OIE standard was based on the results of a Chinese experts' study of the standard. Chinese experts were currently studying the new OIE standard on BSE adopted at the 2005 OIE annual meeting. China would review its current measures on the basis of the outcomes of this study.

193. Concerning pathogen rules, China had no criteria to require zero pathogens on fresh and frozen poultry products. China's national standard on fresh and frozen poultry products was GB16869-2005 rather than GB16869-2002. As far as China knew, the OIE had no new standard on *Salmonella*, *E. coli* and *Listeria* in cooked products. Should the United States provide China with detailed information on this topic, China would carry out a study on the new OIE standards. In the national standard (GB16869-2005), China did set the tolerance criteria for *E. coli* in fresh and frozen poultry products but did not set any specific tolerance criteria for *Listeria*.

194. In relation to food safety, although China was of the view that the European Communities misunderstood some aspects of China's food safety management system, including management of food manufacturing enterprises, China appreciated the technical assistance provided by the European Communities and other Members in the area of food safety management. China welcomed any further initiative by the European Communities and other Members to share their experiences on food safety management and the management of food manufacturing enterprises. China would make reference to these good experiences when reviewing its current regulations.

195. Concerning quarantine inspection permits, China had already explained its system to some Members on different occasions. However, China was willing to take this opportunity to reiterate that its quarantine inspection permit granting system was a unified system throughout the country. It was open to all applicants and transparent. Applicants received a fair and quick service free of charge. In order to facilitate the application procedure, applications were also accepted through Internet since last year.

196. Regarding bilateral cooperation, China had already set up good cooperation mechanisms in the SPS area with numerous Members including the United States. China would also sign a Memorandum of Understanding with the European Communities to enhance bilateral cooperation in the SPS area. China was of the view that these cooperation mechanisms were very useful and helpful in bettering the understanding of both sides and facilitating the settlement of specific issues. China highly valued technical exchanges and cooperation with WTO Members and was ready to further explore and strengthen cooperation mechanisms with them.

197. As to the specific questions mentioned by the representative of the United States, some progress had already been made through bilateral discussions and negotiations.

198. The representative of China concluded by expressing hope that his statement had covered most of the comments and questions raised by the United States and the European Communities and that the information he had provided was useful and helpful to Members.

199. The Chairperson thanked the representative of China for the very thorough response and asked if any other Member wished to take the floor.

200. The representative of the United States thanked the representative of China for his detailed responses and expressed appreciation of how China and the United States had been able to work together on issues. He noted that, as no capital-based delegation from China was attending this meeting, he might not get responses to his follow-up questions. He pointed out, however, that some of the US questions, although submitted about one month in advance of the meeting, had not been answered today. He specifically mentioned the US questions about the BSE-related ban on low-risk products and fire blight restrictions. With regard to quarantine inspection permits, the United States had specific questions about AQSIQ Announcement 111 and AQSIQ Decree 73 which had not been answered. No responses had been provided to questions on the remaining avian influenza restrictions. Should China have further responses, the United States would welcome hearing them.

201. The representative of the European Communities supported the US statement that all the issues might not have been addressed, in particular the issue on the new OIE guidelines for beef exports.

202. The Chairman expressed some empathy for the representative of China not benefiting from the support of a capital-based delegation and mentioned that the representative of China might not be in a position to respond.

203. The representative of China mentioned that, with regard to the US questions on fire blight, China had already carried out a risk assessment on fire blight which also extended to all other pests and diseases. On the basis of this risk assessment, China had already approved importation of apples from the United States. As to US plums, China was undertaking a risk assessment in a smooth manner with friendly cooperation from the United States. The risk assessment covered fire blight as well as other quarantine pests. China was hoping that both sides could further work and cooperate to improve their risk assessment procedures. As to avian influenza, China had already unsuccessfully requested the United States to provide information on the Avian Influenza control system in place in the states of Connecticut and Rhode Island. China urged the United States to provide relevant information in order to allow further discussions. Regarding AQSIQ Decree 73 for quarantine inspection permits, China had already answered this question last year and the representative of China invited the United States to refer to the 2004 Report to the Council for Trade in Goods on China's Transitional Review (G/SPS/34).

204. The Chairman stated that he would make a short factual report on the transitional review to the Council for Trade in Goods, G/SPS/38.

## **XI. MONITORING THE USE OF INTERNATIONAL STANDARDS**

### **(a) New issues**

205. The representative of Canada recalled that according to the provisions of Chapter 2.7.12 of the OIE Terrestrial Animal Health Code 2005, countries free of highly pathogenic avian influenza but which reported cases of notifiable low pathogenic avian influenza should be able to trade on the basis of appropriate veterinary certification. However, these countries in fact faced restrictions imposed by their trading partners, as had recently occurred to Canada upon the discovery of a positive finding for an H5-type low pathogenic avian influenza in the province of British Columbia in November 2005. Countries that take appropriate surveillance and control measures in a transparent manner consistent with the OIE provisions should rather be treated by other OIE Members in a manner also consistent with the provisions of the OIE. Canada also noted that several countries had introduced prohibitions on imports of birds, poultry and poultry products from all countries, one exempting only the European Communities. Given the current international context, it was important that Members act on the basis of science when applying their measures so as not to deter countries from making appropriate investments in surveillance and reporting. The representative of Colombia mentioned that Colombia had encountered similar problems.

206. The representative of the OIE observed that Croatia had also encountered a similar problem and stressed that this was not compliant with the OIE standard. When developing the standard, the issue was to find a balance between what countries were required to notify that was of sufficient importance to result in justified trade restrictions and what information countries should notify to improve OIE's understanding of the evolution of the disease around the world. The OIE strongly encouraged Members to follow the OIE recommendations and to not discourage countries to share information.

207. The representative of Sri Lanka recalled that in the context of its proposal for a Codex international standard on sulphur dioxide in cinnamon, mentioned in paragraph 55, Sri Lanka wished to raise the issue of the non-existence of a Codex standard on sulphur dioxide in cinnamon under this agenda item. He requested the Committee to make appropriate recommendations to Codex to expeditiously develop this standard. Although according to the agreed procedures such a request to the Committee should have been made ten days in advance of the Committee meeting. Sri Lanka requested the Committee to proceed immediately in this case.

208. The Committee agreed to proceed with Sri Lanka's recommendation.

(b) Issues previously raised

209. No comments were expressed regarding issues previously raised .

## **XII. MATTERS OF INTEREST ARISING FROM THE WORK OF OBSERVER ORGANIZATIONS**

(a) Information from Codex

210. The representative of Codex highlighted the adoption of several codes of practice for the prevention of aflatoxins contamination in tree nuts, tin contamination and the establishment of some maximum levels for contaminants such as cadmium (G/SPS/GEN/599). In addition to the usual update of the maximum levels for additives and MRLs for pesticides, there had been a revision of the Code of Hygienic Practice for Meat. The general Code of Practice for Fish and Fishery Products had benefited from revised sections on the transport and retailing of shrimp and cephalopods and the addition of a Code of Practice for Aquaculture. A Code of Practice to Minimize and Contain Antimicrobial Resistance, based on a similar code developed by the OIE, had also been adopted. Since this document had been provided in October, there had been one meeting of the Executive Committee. The Committee on Food Import and Export Inspection and Certification had finalized the draft principles for traceability and product tracing and the draft principles for imported food inspection based on risk, which would both be considered for final adoption at the next Codex Commission session in July 2006. The Committee on Nutrition and Food for Special Dietary Uses had finalized the standard on cereal-based food. The Committee on Additive and Contaminants would meet for the last time in April 2006, as it would be split into two Committees after the next session of the Codex Commission.

211. The representative of Chile mentioned that draft Codex principles on which Members could still comment included the determination of equivalence and the objective basis for comparison. At the April meeting of the Committee on General Principles, the recommendations on risk analysis by governments would also be discussed.

212. The representative of IICA recalled that document G/SPS/GEN/627 set out some of the activities carried out by IICA. The SPS Initiative for the Americas had supported the participation of IICA members in ten consecutive meetings. Around 36 experts from 26 countries were participating. One of the aims of the initiative was to strengthen the institutional structures to improve the administration of the SPS Agreement. A technical committee had recently been approved in Paraguay. A webpage presented some similar experiences in other IICA countries. IICA had also held workshops on enquiry points and notifications in Trinidad and Tobago for the Caribbean countries and had benefited from FAO funds for some training activities in Argentina and Trinidad and Tobago. The representative of IICA further emphasized that horizontal cooperation between countries and institutional strengthening were vital for the success of this initiative.

213. The representative of the OIE noted that document G/SPS/GEN/624 described the issues contained in the reports of the Terrestrial Code Commission and the Aquatic Code Commission, which had been circulated for comments to member countries and placed on the OIE webpage. The deadline for comments was mid-February. Member countries' comments on these issues would be examined by the Commissions in March and considered for adoption at the OIE General Session in May. This week, the OIE, FAO and WHO were holding a tripartite meeting to discuss common issues, including avian influenza.

214. The representative of ISO recalled that ISO was an international non-governmental organization composed of a federation of national standards institutes. ISO had technical committees open to representatives from industry, government, consumers and any stakeholder group relevant to

the subject. ISO published a catalogue of international standards covering, *inter alia*, food products. Although not referenced in the SPS Agreement, ISO developed voluntary food-related standards. ISO did not provide any testing, certification or accreditation to the standards it produced but had developed international "conformity assessment" guides. Hundreds of ISO test methods were used by Codex in drafting its own standards. In September 2005, ISO published ISO 22000, a new standard using a systems management approach and based on the Codex HACCP system. Two other technical specifications providing further guidance on ISO 22000 (ISO/TS 22004) and requirements for food safety management system certification were underway. A new standard on traceability, as well as work in the field of milk and milk products and genetically modified organism in foodstuffs, were also underway.

215. The representative of the United States observed that if a Member adopted an international standard from the OIE, the IPPC or Codex, Article 3.2 applied. Use of ISO standards did not fall within the provisions of Article 3.2 and therefore should a Member choose to adopt an ISO standard, a science-based risk assessment must be completed and the measure be notified in draft for Members' comments before being adopted and implemented. ISO was not obligated, as were WTO Members, to base their SPS measures on science. ISO standards were implemented by a voting procedure which included parties who had self-declared interests in the development of a particular standard. Representatives to many of the ISO bodies came from the private sector and did not necessarily coordinate their views with the United States Government. Codex, IPPC and OIE standards were available on the internet or upon request whereas ISO standards were only available through purchase. The representative of Canada noted that although ISO developed good standards that were used by Codex in developing Codex standards, they did not have the same status under the SPS Agreement as those of the Codex, IPPC and OIE.

216. The representative of OIRSA noted that document G/SPS/GEN/W/629 reported on OIRSA's activities. A risk analysis workshop had been delivered in Honduras. At the regional workshop in Nicaragua, OIRSA had developed, with participants, a practical case study for the implementation of dispute settlement in SPS measures. In Panama, seminars and workshops on several animal health-related issues had been given. In Guatemala, support had been provided to a university to develop a post-graduate degree on international trade and agriculture and lectures had been given on SPS-related issues. A simulation on avian influenza had been organized in Honduras. In the context of OIRSA's support to the dissemination of international standards, a regional workshop had been organized in Costa Rica. OIRSA was also currently carrying out, in the OIRSA countries, a review of control, inspection and approval procedures having an impact on international trade. With regard to institutional building in the region, together with all OIRSA country members, OIRSA had drawn up a five-year strategic regional plan for each country and proposed immediate actions. The purpose of these plans was to ensure that the internal domestic institutional structures were appropriate. The OIRSA region was free from HPAI, and meetings on avian influenza had been held in Brazil.

217. The representative of the IPPC provided an update on the status of the IPPC standards (G/SPS/GEN/617). IPPC now had 24 standards in place, the most recent being the guidelines for the determination and recognition of equivalence. Four draft standards were ready for adoption at the 2006 meeting of the Commission on Phytosanitary Measures (CPM), including standards on the debarking of wood and the recognition of the establishment of pest-free areas and areas of low-pest prevalence. In addition, IPPC agreed that there was a need for specific standards for particular pests and fruit fly was the first pest to be considered. Technical panels were working on protocols for specific pests including diagnosis protocols for the causal organism for fire blight and the causal organism for citrus canker. Pending topics included efficacy of measures, surveillance for citrus canker and pest risk analysis for plants that are pests, such as invasive species. Revision of ISPM 15 was given a high priority.

218. A more recent summary of the work of the IPPC was contained in G/SPS/GEN/618. The most important thing was the amendment to the IPPC that had come into force on 3 October 2005. As a consequence, the FAO Conference and the ICPM had ceased to be the governing bodies and would be replaced by the CPM. FAO members that were contracting parties would be allowed to attend CPM meetings as observers only. The International Phytosanitary Portal has been updated to allow navigation in the three WTO languages. A total of eight regional workshops had been held with 120 countries represented and 130 auditors had been trained in those workshops. The IPPC secretariat had not received any request for assistance in dispute settlement. In addition to country consultations, a regional workshop on draft ISPMs had been organized and provided a fruitful opportunity to exchange views on the draft among the 140 participating countries. A workshop on ISPM 15 had also been held with great success. To follow-up on this success, the IPPC secretariat was monitoring the SPS notifications of countries' implementation of ISPM 15. To date, 11 countries had notified implementation. The IPPC budget for 2006 would not allow as many activities as in 2005.

### **XIII. OBSERVERS – REQUESTS FOR OBSERVER STATUS**

219. The Committee agreed to invite the organizations with current ad hoc observer status to participate in its next meeting (ACP Group, EFTA, IICA, OECD, OIRSA and SELA). The Committee also invited all interested observer organizations to participate in the informal meetings to be held in connection with the next Committee meeting.

220. The Committee took no decision regarding the requests for observer status from the Office International de la Vigne et du Vin (OIV), the Asian and Pacific Coconut Community (APCC), and the Convention on Biodiversity (CBD).

### **XIV. CHAIRPERSON'S ANNUAL REPORT TO THE COUNCIL FOR TRADE IN GOODS**

221. At the meeting on 24 October 2005, the Chairman announced his intention to make a brief, factual annual report on the activities of the SPS Committee in 2005 for consideration by the Council for Trade in Goods. The report provided information on the main work undertaken at the meetings held in 2005 and would draw attention to the adoption of the reports on the S&D proposals and on the Review of the SPS Agreement. In addition, the report would mention the large number of specific trade concerns discussed, the adoption of the Seventh Annual Report on the Procedure to Monitor the Process of International Harmonization and would provide an overview of discussions under other agenda items. The report to the Council on Trade in Goods was circulated as G/L/755.

### **XV. OTHER BUSINESS**

#### *Canada - Greek inspection procedures for wheat*

222. The representative of Canada recalled that Canada had previously identified concerns about Greece's requirements for inspection and testing of wheat from third countries. Although Greece had made some useful amendments, the issue had recently deteriorated. Of concern were the frequency of inspections, which was beyond what a risk-based approach would require; the lengthy detention periods of up to two months; Greece's requirement for a 1.5 per cent limit on fusarium damaged kernels in grain shipment, although this was not a reliable indicator of the presence of harmful toxins. In addition, in December 2005, Greece had required that 100 per cent of shipments be tested for the presence of GM wheat, although no GM wheat was registered in Canada or grown commercially anywhere in the world and therefore, therefore no validated test for the presence of GM wheat existed. These requirements were discriminatory as they only applied to cereals originating outside the European Communities. Canada called on Greece to remove these requirements without further delay.

223. The representative of the European Communities noted that progress had been made following discussions in the Committee, and that Canada's concerns would be transmitted to Greece.

*Paraguay – Information on the health situation*

224. The representative of Paraguay reported that in May 2005 Paraguay had recovered the OIE status of FMD-free with vaccination it had lost in 2003. Strong public and private involvement made it possible to adopt a new vaccination and registration policy, including implementation of two annual campaigns, registration of vaccination and movement of livestock and adoption of a vaccination system which included updating of vaccination data. Paraguay had technical agreements with Brazil and Argentina. This work enhanced international confidence in Paraguay's animal health situation and exports in meat and derivative products had significantly improved.

*Paraguay – Establishment of a national SPS coordinating committee*

225. The representative of Paraguay described the establishment of a national technical committee on plant and animal health with representatives from ministries of foreign trade, foreign relations, the national technical bodies, and representatives from the private sector. This committee would provide an important link between the public and private sectors, and contribute to the implementation of the national SPS agenda. The representative highlighted the importance of IICA's involvement in this process.

*Chile – BSE situation*

226. The representative of Chile noted that while Chile had never registered any cases of BSE, in 2005 the European Food Safety Authority (EFSA) evaluated Chile as being a country where BSE was likely to occur or had been confirmed (category 3). Chile disagreed with EFSA's analysis, particularly the time-frame and some of the data underpinning the analysis. Chile had sent documentation to EFSA and the European Commission but had not received any reply or comment. EFSA's classification cast doubt on the BSE situation in Chile and had negative impacts on Chile's industry. An ad hoc group of the OIE had noted that Chile satisfied requirements for a country provisionally free of BSE. Chile urged EFSA to recognize the OIE evaluation.

227. The representative of the European Communities noted that while EFSA had classified Chile as a category 3 risk, the European Communities remained open to reassessing the status in the light of the OIE revised code on BSE. If the OIE were to classify Chile as provisionally free, the European Communities would take this into consideration. However only Argentina, Iceland, Singapore and Uruguay were in this particular category. However, even if a country was categorized as a category 3 risk of BSE, trade could still take place if appropriate measures were in place.

*Mexico – Information on standardization*

228. The representative of Mexico drew attention to Mexico's notification of a supplement to the national standardization programme for 2005 (G/SPS/GEN/491/Add.3). This programme included all official standards in the area of SPS, and voluntary measures applicable to the private sector, including new draft regulations, modifications to existing regulations and the cancellation of regulations. Mexico stressed the importance of its proposal on "Good Regulatory Practice" which would allow improvement of the implementation of transparency provisions of the Agreement.

*Peru – National fruit-fly control programme*



229. The representative of Peru noted that his country had started the second stage of a national programme to eradicate the fruit fly. The estimated investment, supported in part by the Inter-American Development Bank, was about US\$ 37 million..

#### **XVI. DATE AND AGENDA OF NEXT MEETING**

230. As announced per fax on The Committee agreed on the following provisional agenda for its next meeting:

#### **AGENDA FOR MEETING OF 29-30 MARCH 2006**

1. Proposed agenda
2. Activities of Members
3. Specific trade concerns
  - (a) New issues
  - (b) Issues previously raised
  - (c) Consideration of specific notifications received
  - (d) Information on resolution of issues in G/SPS/GEN/204/Rev.6
4. Operation of transparency provisions
5. Implementation of special and differential treatment
  - (a) Report on informal meeting
6. Equivalence – Article 4
  - (a) Information from Members on their experiences
  - (b) Information from relevant observer organizations
7. Pest- and Disease-free areas – Article 6
  - (a) Report on informal meeting
  - (b) Information from Members on their experiences
  - (c) Information from relevant observer organizations
8. Technical assistance and cooperation
  - (a) Information from the Secretariat
  - (b) Information from Members
  - (c) Information from observers
9. Issues arising from the Review
10. Monitoring of the use of international standards
  - (a) New issues
  - (b) Issues previously raised
11. Matters of interest arising from the work of observer organizations
12. Observers - Requests for observer status
13. Election of Chairperson
14. Other business
15. Date and agenda of next meeting

16. The following deadlines are relevant for the next meeting:

- (i) For identifying new issues for consideration under the monitoring procedure: **16 March 2006**
  - (ii) For requesting that items be put on the agenda: **16 March 2006**
  - (iii) For the distribution of the airgram: **17 March 2006.**
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