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**Committee on Sanitary and Phytosanitary Measures**

**SUMMARY OF THE MEETING OF 27-28 JUNE 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-sixth meeting on 27-28 June 2006. The agenda proposed for this meeting, circulated on 16 June 2006 (WTO/AIR/2848), was adopted with amendments.

2. The WTO Secretariat apologized for the fact that due to activities related to the on-going Doha Development Agenda negotiations, the Committee was unable to meet at the Centre William Rappard and it had not been possible to find venues for the informal meetings that the Committee had intended to hold immediately prior to the regular meeting. A number of Members expressed gratitude that the Secretariat had made every effort to enable the regular meeting of the Committee to take place, but expressed their serious disappointment that the informal meeting to consider the issue of pest- or disease-free areas had been cancelled.

## **II. ACTIVITIES OF MEMBERS**

### *European Communities – Information on non-EC residue plans for imports into the European Communities*

3. The representative of the European Communities informed Members that the European Commission's Health and Consumer Protection Directorate-General (DG-SANCO) had recently revised its procedures for the evaluation of residue control plans from all third countries and allocated this task to the Food and Veterinary Office (FVO). A new webpage had been added to the DG SANCO website in order to explain to third countries the elements required for drawing up a residues control plan, and the process by which such plans, and the guarantees they offer are assessed in order to determine equivalence with EC law. Third countries were encouraged to submit information using the relevant templates provided on webpage as this would expedite the evaluation process (<http://ec.europa.eu/comm./food/food/chemicalsafety/residues/third-countries-en.htm>).

### *European Communities – Update on the Avian Influenza Situation*

4. The representative of the European Communities reported that a total of 13 EC member States had been affected by avian influenza outbreaks, all of which had their origins in wild birds. While nine cases had affected wild birds exclusively, commercial flocks had been affected in four cases. There were no human cases. The comprehensive surveillance measures which had helped to detect and eradicate the disease had paradoxically also led some Members to take disproportionately restrictive trade measures that were not science-based.

### *Brazil – Measures taken on foot and mouth disease (FMD)*

5. The representative of Brazil reported that FMD outbreaks had been detected in the states of Mato Grosso do Sul and Paraná. In both states, the slaughter of affected animals had been completed. In Mato Grosso do Sul, symptoms compatible with FMD had been detected in animals in the municipality of Japorã during inspections in April 2006. The World Animal Health Organization (OIE) had been duly notified of the incident and all bovines from the property as well as surrounding areas had been destroyed. Animal sentinel, without vaccination had been introduced in the affected states starting in April 2006. Intensive surveillance, inspection and testing efforts as well as restrictions on transit of susceptible live animals, persons, and animal products were on-going. The representative of Brazil called on importing Members to limit their sanitary restrictions to the two affected states in accordance with international guidelines.

*United States – Actions regarding BSE*

6. The representative of the United States stated that since the first detections of BSE in 1986, the international community had gained much experience with the disease and there was a positive trend towards the adoption and application of science-based sanitary measures consistent with the guidelines of the OIE allowing safe trade in ruminants and ruminant products. The United States advocated guidelines that reflected scientific assessment and recognized that risk mitigation measures, when applied appropriately, allowed trade to occur safely.

7. More than 735,000 cattle had been tested since June 2004 under the active surveillance for BSE with only two positive detections, in addition to the imported case from 2003. The prevalence of the disease in the United States was less than 1 case per million adult cattle. The United States also maintained a comprehensive system of interlocking safeguards, including the removal of specified risk materials from the food supply along with a 1997 ruminant-to-ruminant feed ban. She called on all Members to remove unjustified BSE-related bans on imports of beef and other ruminant products, as well as on live cattle.

*United States – Proposed revisions to the approval process for the importation of fruits and vegetables*

8. The representative of the United States indicated that the US Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) had announced a proposal to establish criteria that would allow for faster, more efficient approval of fruits and vegetables for importation into the United States. The proposal, which had been notified in document G/SPS/N/USA/1307, did not affect commodities already eligible for importation. The new process would create a framework for approval upon completion of a pest-risk analysis. Other rulemaking procedures would no longer be required for commodities that met the criteria outlined in the proposal. To be eligible, the US authorities needed to be able to mitigate a commodity's risk by one or more of four measures (1) port-of-entry inspection; (2) application of a pre-approved post-harvest treatment; (3) a phytosanitary certificate attesting that the commodity came from a pest-free area; (4) a phytosanitary certificate attesting that the commodity was free from specific pests. This new process would allow the United States to recognize pest-free areas without having to conduct full rulemaking. If adopted as a final rule, the proposed changes would expand Members' opportunities to export fresh fruits and vegetables to the United States under a faster, more efficient approval process. The new proposal would impact 85 per cent of requests for imports. The United States invited comments on the proposal until 27 July 2006. Additional information on the proposed rule and how to comment could be found on the USDA-APHIS website at <http://www.aphis.usda.gov/newsroom/content/2006/04/q56meet.shtml>.

9. The representative of the European Communities welcomed the new proposal which could facilitate approvals for imports without a lengthy rule-making process and without lowering phytosanitary standards.

*Proposals tabled by the European Communities and NAMA 11*

10. The Secretariat informed the Committee that two proposals on a horizontal mechanism to solve trade concerns related to non-tariff barriers had been tabled in the negotiations on non-agricultural market access.<sup>2</sup> The proposed new mechanism would be in addition to existing mechanisms such as raising concerns in the relevant Committees, which according to the proponents often did not lead to a solution, and to the formal dispute settlement procedure, which they saw as

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<sup>2</sup> Proposal TN/MA/W/11/Add.8, tabled by the European Communities, and proposal TN/MA/W/68/Add.1, tabled by Argentina, Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa, Tunisia and Venezuela.

costly and slow. The proposed new mechanism would be quick and pragmatic, focusing not on legal issues or WTO consistency but on resolving a market access problem related to non-tariff barriers. Participation in the proposed mechanism would be compulsory, if one Member requested it. A facilitator would receive submissions from the parties and conduct fact-finding; proposing a solution within 60 days. Implementation of the proposed solution would be voluntary, but a Member rejecting such a solution would have to explain why. The procedure would be confidential, and would be without prejudice to Members' right to pursue the same issue through the DSU, in parallel or subsequently.

11. The Secretariat noted that the role of the SPS Committee in the proposed mechanism would be to maintain a roster of experts to serve as facilitators; act as a forum where Members could submit issues to be addressed by the mechanism; receive a report on the solution from the facilitator; and, if the Members concerned decided not to implement the proposed solution, receive a report on the reasons. The proposals had been discussed at informal meetings of the negotiating body on non-agricultural market access in May. Members had raised questions related to the coverage of the proposed mechanism; its relation to existing mechanisms, including the formal dispute settlement procedure and Article 5 of the DSU and similar articles contained in other agreements; financial implications; and whether solutions would be applied on an MFN basis. The Secretariat indicated that it would follow the discussions and keep the Committee informed.

*Request from the CBD Secretariat regarding invasive species*

12. The Secretariat also brought to the attention of the Committee a query from the Secretariat of the Convention on Biological Diversity (CBD). The concern was whether and how to address the possible lack of international standards regarding invasive species that were not pests of plants covered by the IPPC but were rather of animal origin. A CBD expert group meeting in 2005 had posed a number of questions as to whether such invasive species would fall under the current or an extended mandate of the OIE or whether new instruments were required. The representative of Canada suggested that the Committee invite the CBD Secretariat to make a presentation on this issue at the margins of the October 2007 meeting. The representative of the European Communities strongly supported this suggestion, which was agreed by the Committee. The representatives of the United States and Brazil stated concerns about overloading the agenda for the October meeting.

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

(a) New issues

*US import restrictions on wooden Christmas trees – Concerns of China*

13. The representative of China expressed their concerns regarding the US decision to stop the importation of artificial Christmas trees from China, although only one enterprise had violated the quarantine treatment requirement which had resulted in the detection of live long-horn beetles in its consignment. This exceptional incident did not indicate a defect of the whole Chinese system. The strict measure taken by the United States did not respect the WTO rules on minimizing the impact on trade and had caused great losses for Chinese enterprises and had also affected the US Christmas tree market. Furthermore, there was an undue delay in the way the issue was dealt with by the United States. The Chinese Government had spared no effort to take corrective measures regarding the whole system, including the enhancement of supervision of the quarantine and inspection system and receiving US inspectors in several provinces in February 2006. Although the experts had indicated their satisfaction with the improvements, no formal response had been received from the United States.

14. The representative of the United States replied that between 22 February 2002 and 22 October 2005, during routine 2 percent inspections at US ports of entry, the United States had intercepted quarantine significant pests on wood handicraft products shipped from China 418 times, including on artificial Christmas trees, trellis towers, other home and garden wood décor, and craft items. These interceptions had not abated. The plant quarantine authorities of the United States and China had maintained an on-going dialogue regarding such interceptions. This wood boring pest was closely related to the Asian longhorned beetle which had been introduced into the United States in shipments of wood packing material from China and was now being eradicated in Chicago and New York. The United States had spent in excess of US\$200 million on its ongoing eradication effort. Although the United States had requested China to provide an action plan to address the infestations, no response had been received. On 1 April 2005, the United States had adopted emergency measures to suspend the importation of wood handicraft items from China, including artificial Christmas trees, that contained wooden logs, limbs, branches, or twigs greater than one centimetre in diameter and with intact bark. Manufactured items that had been heat treated or fumigated with methyl bromide and had 100 percent of the bark removed were not subject to the import suspension, so the US measure was no more trade-restrictive than necessary. When its assessment of the risk of continued introduction of quarantine pests on manufactured wood commodities from China was completed, this would be shared with China's plant quarantine authorities.

*India's biotech labelling and import approval process regulations – Concerns of the United States*

15. The representative of the United States referred to India's two notifications to the TBT Committee affecting trade in biotechnology products. The Ministry of Commerce and Industry's "Supplement to the Government of India's Foreign Trade Policy, Condition 18" (G/TBT/N/IND/17) would require that its Genetic Engineering Approval Committee (GEAC) provide pre-approval of imports. The Ministry of Health and Family Welfare's proposed mandatory labelling requirement for biotechnology products (G/TBT/N/IND/12) would also require pre-approval by the GEAC. The United States requested that these measures be notified to the SPS Committee to allow an opportunity for comments and that their implementation be delayed until a number of issues could be resolved. In particular, the United States was concerned about: the lack of clarity with regard to the scope and process of the proposed measures and their scientific justification; what procedures would be in place for pre-approval of imports and once approved, what procedures would be in place domestically and at the ports for enforcement; and what was the scope and the justification to require that the process of production be included on the label. Without clarification of these questions, US exports to India would be negatively affected. The representatives of Argentina and Brazil, shared the concerns raised by United States and asked that Members be given an opportunity to comment on the measures before their adoption. The representative of Canada indicated that Canada would provide comments on the relevant TBT notifications and also invited India to notify its measures to the SPS Committee and take into account comments of other Members. She noted that one of the measures notified would enter into force only one day after the final date for comments.

16. The representative of India took note of the concerns raised and stressed that the proposed regulation on pre-approvals was not new as it had already been notified in 1989. The purpose of the current proposal was to make the requirements mandatory. The objective of the mandatory labelling requirement was to provide correct information to consumers about the nature of the food. India was committed to following the transparency requirements and would consider notifying the relevant measures to the SPS Committee and would take into account comments received before the measures entered into force.

*Dominican Republic tolerance levels for soil content on potato tubers - Concerns of Canada*

17. The representative of Canada stated that Canada had been negatively affected by the unacceptably low tolerance levels set by the Dominican Republic for soil content on potato tubers

which were ten times lower than those indicated in the international standard. This measure seemed to target Canada as other exporters were not subject to the same requirement, which was impossible to meet and was not based on a risk assessment. Despite numerous efforts at the bilateral level and an invitation extended to the Dominican Republic to visit the potato production sites, the issue remained unresolved. Canada urged the Dominican Republic to amend its tolerance level to bring it in line with international practice.

18. The representative of the Dominican Republic replied that the measure was not discriminatory as it applied to all countries exporting to the Dominican Republic, where there was a risk of introduction of nematodes. An official communication had been sent to Canada in this regard and they hoped to resolve the issue promptly.

(b) Issues previously raised

*Bolivia's slaughter of imported breeding cattle – Concern of Mexico (no. 205 – G/SPS/GEN/204/Rev.6)*

19. The representative of Mexico recalled that this concern had been raised at the previous meeting of the SPS Committee. A Mexican association, FOGAMEX, had been invited to show some cattle at a fair in Santa Cruz, Bolivia. Although the requirements communicated by Bolivia's animal health authority (SENASAG) had been fulfilled and an import permit had been obtained, when the cattle arrived in Bolivia, SENASAG had seized the animals and ordered that they be returned to Mexico. However, since foot and mouth disease exists in Bolivia while it does not exist in Mexico, it was not possible to return the animals to Mexico. After weeks of negotiations, and after the Bolivian authorities had revoked the import permit although the cattle had already arrived, Bolivia decided to slaughter the cattle. Months later, in the context of a lawsuit filed by FOGAMEX against SENASAG, the Bolivian Supreme Court in Santa Cruz found that SENASAG had withheld the import permits without legal basis and ordered SENASAG to cover the damages. Formal consultations held in La Paz, Bolivia in 2005 had not led to an agreement. Since then, bilateral efforts had continued to try to obtain an official and public apology from the Bolivian Government and payment for damages caused.

20. The representative of Bolivia indicated that, as explained at the previous meeting, in the absence of OIE guidance, the competent Bolivian authorities had followed national and Andean Community sanitary requirements, which required a risk assessment before an import permit was issued. The animal health authorities received insufficient documentation to carry out a risk assessment only two days before the cattle arrived. According to the Andean regulations, the cattle thus had to be slaughtered or re-exported. After granting a reasonable period to allow the interested parties to organize the re-exportation of the cattle, which had not been possible, the Bolivian authorities had slaughtered the cattle to ensure adequate health protection in Bolivia and in the region. The representative of Bolivia emphasized that bilateral efforts were underway to find a mutually satisfactory solution to Mexico's concern about the economic damage suffered by the Mexican exporter.

*Import restrictions on EC exports of live birds, meat, meat products and other products due to avian influenza – Concern of the European Communities (no. 235 – G/SPS/GEN/204/Rev.6)*

21. The representative of the European Communities reiterated concerns about certain Members' measures to protect against the entry or spread of avian influenza which were not based on scientific principles and not in accordance with the SPS Agreement. Certain WTO Members imposed unjustified measures on EC exports of an excessively broad range of poultry products, including heat-treated ones. Moreover, only a limited number of EC member States had confirmed cases of avian influenza and many had rapidly regained disease-free status. The European Communities urged on

Members to base their measures on scientific principles and apply the concept of regionalization rather than banning imports from all EC member States.

*Japan's positive list system for pesticides, veterinary drugs and food additives MRLs – Concerns of China (no. 212 - G/SPS/GEN/204/Rev.6)*

22. The representative of China noted that Japan's positive list system for agricultural chemical residues in food had entered into force on 29 May 2006. While recognizing Japan's right to revise its residue standards to safeguard the health of its citizens, China was concerned since Japan was the largest importer of food from China. Japan had only published testing methods for 553 agricultural chemicals; testing methods for another 200 chemicals were still lacking, which could seriously affect efforts of developing country Members to study these methods. In addition, Japan was not following the Codex guidelines for judging test results. China requested Japan to publish all testing methods, notify them, offer a 60 day comment period, provide a six month transitional period before they entered into force and offer technical training and education to China.

23. The representative of China asked Japan to explain why it had started implementing the positive list system in December 2005 by requiring that rice be tested according to the new MRLs, well ahead of the May 2006 implementation date. This had raised costs for Chinese rice exports and interrupted trade, since farmers had no time to adjust their chemical use. From January to June 2006, on three occasions, China had been given only two weeks to comment on certain MRLs, which was too short. China requested an explanation of the relationship between these MRLs and the positive list system. In China's view, these changes should be notified to the WTO. Finally, the representative of China noted that both the Japanese and English versions of the positive list system contained many editing errors and that therefore there were constant changes and asked Japan to provide a clear and comprehensive list of MRLs for agricultural chemicals at an early date. Previous efforts to resolve the problems had not succeeded, and China urged Japan to address China's concerns in a scientific way.

24. The representative of Japan confirmed that its positive list system for agricultural chemicals including pesticides, veterinary drugs and feed additives had taken effect on 29 May 2006. For the establishment of provisional MRLs, Japan had taken into account Codex standards; existing residue levels for pesticides set under the Agricultural Chemicals Regulation Law or limits of determination for veterinary drugs set under the Pharmaceutical Affairs Law; and MRLs set by other countries where residue standards were based upon the toxicological data required by the Joint WHO/FAO Expert Committee on Food Additives (JECFA) and the Joint WHO/FAO Meeting on Pesticide Residues (JMPR). Since these MRLs had been established through a globally accepted approach, Japan believed them to be consistent with WTO principles. Japan used a toxicological threshold of 1.5 µg/day to determine the uniform limit, based on JECFA, US FDA and JMPR evaluations. The uniform limit had been set at 0.01 ppm, based on the food consumption patterns of the Japanese population. Japan had published analytical methods for 623 substances and would continue to finalize and publish the remaining analytical methods for other substances. When Japan newly established or amended standards, including MRLs, under the Food Sanitation Law, these were explained to foreign embassies in advance of WTO notification. After this meeting, comments were requested within two weeks, after which the notification was sent to WTO, with a 60-day comment period.

*Japan's import suspension on heat-processed straw and forage for feed – Concern of China (no. 221-G/SPS/GEN/204/Rev.6)*

25. The representative of China stated that Japan's measures with regard to import of straw and forage for feed required unnecessary additional assurances, exceeding the OIE standard. There was no risk of transmission of any disease after straw and forage were heat-treated at a temperature of 80 degrees or more for at least 10 minutes. Japan was using the FMD situation in China as an excuse for trade restrictions and was not applying the concept of zoning/regionalization as there were no new



cases of FMD in the counties where straw and forage were produced. China requested Japan to consider the complaints of the Chinese industry as well as of Japanese importers and to amend its unscientific and unnecessary trade restrictions following OIE standards and WTO rules.

26. The representative of Japan replied that any straw and forage other than rice straw were permitted for importation into Japan on the condition that pests were not detected in the process of import inspection. Regardless of its use in Japan, the importation of rice straw was prohibited from all countries other than Korea, Democratic People's Republic of Korea and Chinese Taipei. If rice straw went through disinfection treatment, such as heat treatment with water vapour, it could be imported into Japan. In order to prevent the introduction of FMD into Japan, imports of heat-treated straw and forage for feed from China were permitted only if there was no FMD infection around the areas where raw materials were produced, processed and stored and appropriate heat treatment was carried out. Japan had to suspend the importation of heat-treated rice straw in May 2005 after repeated violations of the requirements detected at some ports of entry into Japan. In addition, China had officially notified to the OIE the spread of the infected area and the increase in the number of areas of foot and mouth disease. Japan had not received sufficient data from the China to support the claim that rice straw was produced in disease-free areas. Once the data requirements were complete, Japan would review the situation to decide whether the import suspension could be lifted and whether any other pre-export measures were necessary.

*Guatemala's restrictions on poultry meat products and sub-products (including eggs) – Concern of Mexico (no. 210 – G/SPS/GEN/204/Rev.6)*

27. The representative of Mexico raised concerns related to Guatemala's import prohibition on poultry meat products and sub-products (including eggs). The long delays with which Guatemala's Ministry of Agriculture (MAGA) had responded to the multiple requests for importation of such products from Mexico violated the timeframes established by Guatemalan authorities. In April 2005, Mexico had sent MAGA the model zoosanitary certificates for approval, accompanied by information on avian diseases in Mexico. Although in November 2005, during a meeting of a bilateral SPS technical expert group, Guatemalan authorities had committed to carry out a risk assessment and provide a response, no response had yet been received. During January and February 2006, Mexico had asked Guatemala to remove restrictions imported in response to an alleged outbreak of low pathogenic avian influenza, taking into account OIE guidance. At the same time, Mexico requested information on Guatemala's avian influenza situation in order to open Mexico's market for poultry products from Guatemala. Bilateral meetings had been held in the margins of the 34<sup>th</sup> meeting of the SPS Committee. In June 2006, Mexico had received a communication from MAGA indicating that due to the difference in sanitary status between the two countries, Guatemala would not lift its import restrictions on poultry products and sub-products from Mexico. At the same time, Guatemala declined to respond to Mexico's questionnaire on Guatemala's avian influenza situation. Mexico considered that Guatemala's actions violated the OIE Code and the SPS Agreement, and hoped that Guatemala would soon respond to Mexico's requests, allowing trade of poultry products and sub-products between both countries.

28. The representative of the European Communities indicated that exports from EC member States to Guatemala had been disrupted because of avian influenza concerns. The European Communities emphasized that such measures should be proportional to the risk, taking into account Article 6 of the SPS Agreement. The European Communities intended to pursue the issue bilaterally.

29. The representative of Guatemala indicated his country would work bilaterally to resolve the issue related to EC exports.

*Israel's lack of phytosanitary import legislation – Concerns of the European Communities (no. 232 – G/SPS/GEN/204/Rev. 6)*

30. The representative of the European Communities raised again concerns related to Israel's lack of phytosanitary import legislation. The legislation was still at a draft stage, although efforts were being made to publish the final legislation. The European Communities invited Israel to finally adopt this legislation.

31. The representative of Israel explained that the plant protection and inspection services of Israel were revising and modifying Israel's import regulations for plants and plant products. The regulations had existed since 1971, and had been revised and modified since then to comply with the SPS Agreement. Various products and commodities were allowed according to their phytosanitary risk and imports permits for new products were granted after a pest risk analysis. The revision process, which required attention to hundreds of products, was taking longer than expected. The import requirements for most products were already specified in the import permits and could be found on the website of the Ministry of Agriculture, but the interagency legislative process had not yet been completed. The Ministry of Agriculture was expected to send its final draft phytosanitary import legislation to the Ministry of Justice within weeks; then the draft would be sent to the Israeli Parliament. Israel's plant protection and inspection services were doing their utmost to facilitate trade with the European Communities and with other trading partners.

*Australia's import restrictions on New Zealand Apples – Concerns of New Zealand (no. 217 - G/SPS/GEN/204 Rev.6)*

32. The representative of New Zealand provided an update of its concern regarding Australian restriction on apples. New Zealand had commented on a draft risk assessment. Contrary to evidence considered in the *Japan – Apples* case, Australia maintained that mature apples were a vector for fire blight. New Zealand was of the view that volume estimates in the risk assessment should contain only New Zealand exports. Biosecurity Australia had indicated that the process might conclude at the end of 2006. If this problem - which had existed for four years - could not be resolved bilaterally, New Zealand would not rule out other WTO actions.

33. The representative of the United States reiterated the request that Australia revise its approach in light of the scientific evidence and of WTO jurisprudence.

34. The representative of Australia indicated that 40 submissions commenting on the draft import risk assessment had been received, and that some technical exchange was continuing. The draft import risk assessment took into account Australia's appropriate level of protection; fire blight was only one of the pests of concern. The final report would be reviewed by an eminent scientist group to ensure that stakeholder comments had been properly taken into account.

*EC novel food regulation – Concerns of Peru*

35. The representative of Peru raised further concerns regarding the EC novel food regulation. In Peru's view, one of the major problems of the EC regulation was that it did not distinguish between new foods that had not been consumed before anywhere, and those that were new only to the European Communities, which was the case for most of the traditional exotic products originating from developing countries. The representative of Peru requested that the European Communities provide information showing that it was necessary to apply this measure to traditional exotic products, in accordance with the provisions of the SPS Agreement. Peru considered that the regulation constituted an unnecessary and unjustified barrier to trade due to the cost and time required to gain approval for novel foods, even if they had a history of safe consumption in their countries of origin, and requested the exclusion of traditional exotic products from the novel food category. He also

requested that the European Communities explain how special needs of developing countries had been taking into account in accordance with Article 10 of the SPS Agreement (G/SPS/GEN/713).

36. The representatives of Bolivia, Brazil, Colombia, Ecuador, India, Paraguay and the Philippines shared the concerns raised by Peru. The representative of Ecuador indicated that a study on the impact of the novel food regulation was about to be finalized. Preliminary results of this study showed that this regulation could have negative economic and social consequences for Ecuador's production system by having an effect both on current exports and on products with export potential in the European Communities that were currently marketed in other countries (G/SPS/GEN/714). The representatives of Bolivia and Colombia highlighted that some of the products were currently being promoted *inter alia* by policies supporting alternatives to narcotic crops, some of which were funded by the European Communities or its member States. The representative of the Philippines indicated that the effects of the novel food regulation and of EC regulations on genetically modified food were still being evaluated.

37. The representative of the European Communities stressed that the concerns expressed were being taken seriously, and that the novel food regulation was currently under review (G/SPS/GEN/699 and 700). He explained that the original intention of the novel food regulation had been trade-creating; its purpose was to authorize trade in novel foods. In addition, products that had already been traded prior to 1997 had been exempted. The regulation had been targeted mainly at EC companies. The regulation had been successful in that new foods were being approved on the basis of safety assessments. A statement that a product had been consumed for centuries was not sufficient. He highlighted that very few applications for approval of traditional exotic products had been received, so that there were very few case studies. Traditional exotic products was a broad category including some items where there had been safety concerns. In the context of the review of the regulation, the representative of the European Communities indicated that it would be helpful to receive more information on these products, including a clear definition of the products at issue whether they had been approved in other export markets, and safety-related data available, as well as information on the socio-economic impact.

(c) Consideration of specific notifications received

38. No Member raised concerns related to a specific notification.

(d) Information on resolution of issues

*Mexico's restrictions on the importation of dry beans*

39. The representatives of the United States and of Mexico informed the Committee that the concern regarding Mexico's restrictions on the importation of dry beans had been resolved (no. 164 - G/SPS/GEN/204/Rev.6)

*US import restrictions on Schlumbergera and other plants in growing media*

40. The representative of the European Communities indicated that the issuance of the US final rule on plants in growing media, including Schlumbergera, would resolve this issue (no. 102 - G/SPS/GEN/204/Rev.6).

*Revision of document G/SPS/GEN/204*

41. The Secretariat drew the attention of the Committee to Revision 6 of document G/SPS/GEN/204 on specific trade concerns. Similar to the previous revision, the document was divided in four parts. The first part contained an overview and summary tables of all the issues raised

since 1995. The second part (G/SPS/GEN/204/Rev.6/Add.1) included all current issues that had been raised during the previous year. The third part (Add.2) contained those issues that were somewhat dormant, not having been raised in the previous year, while the fourth part (Add.3) contained the issues for which a resolution had been reported. In the current version, each issue had been assigned a specific number, in chronological order. This number would not change and would allow tracking an issue through different documents and in the forthcoming SPS information management system. The Secretariat suggested that when requesting that a previously-raised issue be placed on the agenda, Members refer to the relevant number to avoid confusion since different Members sometimes referred to the same specific trade concern by different names.

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

42. The Chairman drew attention to the most recent list of national notification authorities contained in G/SPS/NNA/9 and Add. 1 and 2; the most recent list of national enquiry points contained in G/SPS/ENQ/19 and Add. 1 and 2; and notifications received since the last meeting of the SPS Committee summarized, on a monthly basis, in G/SPS/GEN/694, G/SPS/GEN/595 and G/SPS/GEN/703.

43. The Secretariat reported on the development of the SPS information management system (SPS-IMS) for SPS notifications, specific trade concerns and other Committee documents. A first phase of this project would help the Secretariat prepare notifications and make better and more efficient use of the information available. A second phase would enable Members to conduct searches that went beyond what was currently possible in the Documents Online system on the WTO website. Eventually, Members would be able to submit notifications online directly. The Secretariat was presently testing the first phase; the second phase would begin when the first phase was fully operational. The Secretariat hoped to be able to demonstrate the functioning of the system at the October meeting of the Committee.

44. The representative of Mexico drew the attention of the Committee to the national standardization programme for 2006. More details were provided in document G/SPS/GEN/491/Add.4.

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

##### **(a) Consideration of proposals referred to the Committee**

45. The Chairman began by reporting on the informal meeting held on 24 May 2006. At that meeting, the African Group had circulated another revision of their proposal on Article 9.2. He recalled that the revision provided earlier by the African Group had been welcomed by many delegates, and that some had noted its similarity to elements contained in the procedure to enhance transparency of special and differential treatment, G/SPS/33. The Chairman had started the meeting on 24 May 2006 with a brief comparison of the African Group proposal and the S&D transparency procedure, and in particular step 6 of that procedure. He had noted, for example, that SPS/33 was designed to apply primarily in the context of the notification and entry into force of a new regulation, while the African Group proposal could presumably be used to address problems resulting from long-standing measures.

46. Both the adopted procedure and the African Group proposal provided that an importing Member, upon request, would examine how the problem identified by the exporting Member could best be resolved and both also identified as possible ways to address the problem the change of the measure and/or provision of technical assistance. However, G/SPS/33 also identified the provision of special and differential treatment as a third possible way to resolve a problem, while the African Group had proposed only one element of special and differential treatment, which was to assist

developing country Members to maintain and expand market access opportunities for the product involved during a transitional period. Another difference was that the adopted procedure indicated that any change in the measure would be done on an MFN basis, and any provision of special and differential treatment would apply equally to all developing country Members. Both the adopted procedure (in Steps 7 and 8) and the African Group proposal provided for the notification to Members of the resolution of the problem.

47. Finally, the Chairman had noted that the African Group proposal indicated that technical assistance shall be fully funded and not entail financial obligations on the part of the exporting developing country Member. This issue had not been addressed in the S&D transparency procedure adopted by the Committee.

48. As during the Committee's discussions at the March 2006 meeting of the Committee, several Members had expressed support for the revised African Group proposal, while other Members had raised questions and comments. Many Members had been concerned that the language of the proposal required that technical assistance be provided until a resolution was reached. They had been of the view that it would not be possible to reach a resolution in all cases, for example if a disease was present in the exporting country that could not be eradicated. One Member had expressed concern that an obligation to provide technical assistance to resolve any problems might infringe on the right of importing countries to take measures to ensure that products met its appropriate level of protection. The proponents of the proposal had explained that what they were looking for were precisely resolutions to trade problems and that they were trying to move away from "best endeavour" language.

49. Many donors had found that providing fully-funded technical assistance was not the most effective way to proceed; beneficiary contributions were often useful to enhance ownership of a technical assistance activity. In contrast, the proponents of the proposal had been of the view that, depending on the exporting Member involved, fully funded technical assistance might be appropriate.

50. One Member had been concerned with the use of the word "consultations" in the revised proposal, given the legal implications of that term in the WTO, rather than the phrase "opportunity to discuss" used in G/SPS/33. The African Group had suggested the "consultations" was the appropriate word since the importing Member would be required to report on these consultations and since the consultation procedure was well established.

51. A number of Members had observed that the Procedure established in G/SPS/33 was not being used; some had suggested that the Committee should analyze why that was the case and look at ways of making it more operational. One Member suggested that a mechanism was required to help developing country Members cope with the large number of notifications concerning ever-changing requirements. The Chairman had suggested that the Committee might want to look at the technical assistance questionnaire developed by the TBT Committee to see if something similar might be useful for SPS purposes.

52. In concluding the informal meeting, the African Group had indicated that it planned to formally submit revisions of their proposals on Articles 9.2 and 10.1 and had invited other Members to submit comments and suggestions to their existing proposals.

53. The Chairman reiterated what he had said in closing the informal meeting on 24 May: that it would be helpful if the African Group submitted its revised proposal as a Committee document since this would allow the Secretariat to translate the proposal into the other two working languages and would facilitate the Committee's discussions. After concluding his report, the Chairman opened the floor for discussion.

54. The representative of Canada noted that the proposal included only three ways to resolve a problem. In Canada's view, this should be an open list to encourage innovative solutions. In addition, the proposal did not reflect past discussions in which the Committee had recognized that special and differential treatment could be granted by one developing country Member to another.

55. The representative of Egypt indicated that Egypt intended to further contribute to this subject in the future.

(b) Report to the General Council

56. The Chairman recalled that the Committee was expected to complete its consideration of the "Category II" S&D proposals and report to the General Council "with the objective of ensuring that clear recommendations for a decision are made no later than December 2006". He indicated that he was planning to submit another progress report to the General Council, on his responsibility as Chairman of the Committee. The report would indicate that the Committee had continued considering the proposals and the underlying concerns, and that the revised proposals informally tabled by the African Group had provided a positive stimulus for the discussions. He would also note that, given the similarities in the revised African Group proposal and the procedure previously adopted by this Committee, some Members had suggested that it would be useful to focus on how to improve the use of the procedure in SPS/33. He would report that the Committee had had constructive and quite detailed discussions regarding technical assistance, and begun to exchange views on how to ensure that technical assistance was effective in addressing the needs of developing countries. In addition, the Workshop on the Implementation of the Agreement, held on 31 March 2006, had been a very useful start to addressing some of the concerns underlying the proposals, covering several of the elements listed in paragraph 43 of the Committee's Report on Special and Differential Treatment (G/SPS/35). It was the Chairman's view that the Committee had continued to examine these proposals in a positive manner, seeking to identify effective and pragmatic means to address the underlying problems, but in part due to the paucity of concrete proposals or revisions to the proposals, the Committee was not presently in a position to make any recommendations further to those in G/SPS/35.

57. The Chairman indicated that the Committee would have another opportunity to discuss this issue at its October meeting before reporting to the General Council with "clear recommendations for a decision". Depending on the contributions received by Members, he would convene an informal meeting immediately preceding the regular meeting, and stressed again that it would be very useful to receive contributions in writing from the proponents as well as from other Members, to provide new input for the Committee's discussions.

(c) Other matters relating to special and differential treatment

58. The representative of the United States introduced a paper containing a compilation of ideas related to technical assistance and special and differential treatment (G/SPS/W/198). She emphasized that the United States was not in favour of changing the text of the SPS Agreement, but believed that technical assistance could help with implementation. Information submitted by Members at the workshop on the implementation of the SPS Agreement held on 31 March 2006 provided interesting suggestions related to technical assistance programmes, defining priorities and ensuring involvement of relevant actors (G/SPS/R/41). The United States supported the idea of a good practices guide for special and differential treatment, as well as the suggestion that the Committee review the SPS technical assistance questionnaire, comparing it to a similar one on TBT-related technical assistance. The United States looked forward to the Secretariat paper on technical assistance and suggested continuing the discussions during an informal meeting on special and differential treatment preceding the next regular meeting of the SPS Committee.

59. The representatives of Canada and of Australia supported the US proposals. Canada considered that a good practices guide for special and differential treatment would complement the suggestion contained in the Committee's report on special and differential treatment (G/SPS/35) to develop good regulatory practices. The representative of Australia indicated that the workshop had been useful, resulting in ongoing dialogue with some delegations.

60. The Secretariat explained that in fact there had been two questionnaires on TBT-related technical assistance. The first questionnaire had been circulated after the second triennial review of the TBT Agreement to identify technical assistance needs; 53 Members had replied. In November 2005, the TBT Committee had adopted a format for the voluntary notification of technical assistance needs, with the objective of matching their needs with offers of technical assistance from donors. Three Members had notified needs; to date there had been no counter-notifications from donors. In the SPS Committee, the Secretariat had circulated a first technical assistance questionnaire in July 1999 (G/SPS/W/101). In 2001, the Secretariat prepared a second questionnaire (G/SPS/W/113), based on the technical assistance typology discussed in October 2000 (G/SPS/GEN/206). There had been 36 replies to this second questionnaire, the latest in November 2004. The Secretariat had been able to provide technical assistance to all Members who had requested it through this second questionnaire. The Secretariat was currently working on a document about Members' technical assistance activities based on the WTO/OECD database. However, there was significant underreporting in the database, which had led to delays in preparing this document. While it was possible to say that Members submitting requests had received a significant number of technical assistance activities, it was difficult to judge whether the questionnaire had been the trigger, except in the case of the WTO Secretariat, which had actively sought to respond to requests in the questionnaires. The Secretariat also informed the Committee that the Standards and Trade Development Facility (STDF) had set up a task force to discuss, *inter alia*, whether the STDF could act as a clearing house for technical assistance.

## **VI. PROPOSAL BY SMALL ECONOMIES**

### **(a) Consideration of the proposal**

61. The Chairman reported that at the informal meeting held on 24 May 2006, the Committee had discussed a proposal submitted by a group of small economies to the Committee on Trade and Development Dedicated Session. This proposal, contained in document WT/COMTD/SE/W/16/Rev.1, was that there be explicit recognition that WTO Members may designate a regional body to provide technical support as necessary and to carry out the functions necessary to assist them in implementing the provisions of the SPS Agreement. The proposal also stated that Members and the WTO "shall provide technical and financial assistance at mutually agreed terms" to support small, vulnerable economies in fulfilling their rights and obligations under the SPS Agreement. The document identified as the relevant provisions of the SPS Agreement Article 9 on Technical Assistance, and Annex B which contained the transparency procedures. The Chairman had been requested to consult with the SPS Committee regarding its views on this proposal, and to report to the Committee on Trade and Development Dedicated Session.

62. The Chairman first summarized the discussions at that meeting, as he had reported to the Chairman of the Committee on Trade and Development Dedicated Session. A substantial number of Members had participated in the informal meeting, including several of the co-sponsors of the SVE proposal. The proposal had been presented by some of its co-sponsors, who had also explained the consultative process they had been engaged in. They had stressed that the use of regional bodies in the manner proposed would facilitate their implementation of the SPS Agreement and enhance transparency, without impinging on the rights or obligations of any WTO Member.

63. A number of Members had welcomed the explanation and clarifications provided regarding the proposal, and the assurance that there was no intention to modify the text of the SPS Agreement. Several Members had stressed that this was the first time this proposal had been considered by the SPS Committee, which had the mandate to implement the provisions of the Agreement and the furtherance of its objectives. Members had been particularly concerned regarding the possible implications of the proposal on their technical assistance activities in the SPS area, and a number of questions had been raised in this respect. These questions had included whether the reference to designated regional bodies referred to existing bodies, or to the creation of new regional bodies. Further clarification regarding the proposed role and function of the designated regional bodies had been sought, and also whether the proposal would mean that all technical assistance was to be channelled only through designated regional bodies. The representative of Canada had suggested textual amendments that would make it explicit that when a Member provided SPS-related technical assistance, they should consider the advantages of providing such assistance to a designated regional body.

64. Several Members had questioned the need for the explicit recognition contained in the proposal, asking whether the co-sponsors in reality faced any obstacles in using regional bodies in the manner they proposed. It had been suggested that the co-sponsors should discuss their concerns with the three international standard-setting bodies referred to in the SPS Agreement, as all of these had regional committees that could assist Members in implementing the SPS Agreement. Questions had been raised regarding the effects of this proposal on other developing country Members (and in particular least developed countries) in terms of their participation in any "designated" regional bodies. One Member had also sought clarification of how "small, vulnerable economies" would be defined. Several Members had noted that the proposal was not limited to SVEs, but that any WTO Member could designate a regional body to assist its implementation of the SPS Agreement. In this respect, one Member had drawn attention to the recent studies by the World Bank which reported favourably on regional approaches to addressing development problems.

65. The representatives of Antigua and Barbuda and of Barbados had provided responses to many of the issues raised in the discussions and had provided some specific information on regional initiatives in the Caribbean. They had indicated that the proposal did not intend to create new regional bodies, but to make use of existing ones. Although not all members of a regional body might use a designated body to assist their implementation of the SPS Agreement, all would be able to benefit from the improved knowledge and capacity of the regional body in this regard. They had suggested that the proposal that technical assistance be provided on mutually agreed terms ensured that the provision of such assistance to a designated regional body was not mandatory. Furthermore, they considered that WTO technical assistance would continue to be provided primarily to Members, not to regional bodies.

66. The co-sponsors of the proposal had furthermore stressed that there was no intention to change the legal text of the SPS Agreement, nor the balance of rights and obligations found therein. Explicit recognition of a Member's ability to use a designated regional body to assist their implementation of the SPS Agreement was needed to provide legal certainty. Although a regional body could develop SPS measures, assist with the preparations of SPS notifications and assist with the response to queries, each WTO Member would continue to be ultimately responsible for submitting its SPS notifications, responding to queries from trading partners, etc.

67. Several Members, while welcoming the clarifications provided, had stressed again that this was the first time this proposal had been presented before the SPS Committee. They had noted that the current text had led to many misunderstandings, in particular regarding technical assistance, and requested time to further consider the proposal.



68. In concluding his report on the May informal meeting, the Chairman noted that he had intended to hold a further informal meeting on this proposal preceding the regular meeting of the SPS Committee, but that had not been possible.

69. The representative of Barbados informed the Committee that similar proposals had been accepted by the TRIPs Council and the TBT Committee and asked Members to be guided by that acceptance.

70. The representative of the United States explained that her country provided assistance both on a regional and on a bilateral basis. The United States considered that regional centres could enhance delivery of SPS assistance, and a number of them, including IICA, were already doing so. However, the United States still had questions regarding the "legal certainty" sought by the proponents, what recognition of regional bodies would mean within the context of the SPS Agreement, and how the work of the regional bodies would be coordinated with existing activities of the OIE, the IPPC and Codex. The representative of the United States encouraged the authors of the proposal to incorporate comments and revise the proposal, including also the explanations provided on 24 May.

71. The representative of St. Vincent and the Grenadines explained that regional bodies would work in the areas of risk assessment and consensus building. St. Vincent and the Grenadines agreed with the changes to the text regarding the provision of technical assistance that Canada had proposed on 24 May.

72. The representative of Colombia supported the proposal, informing the Committee that regional bodies of which Colombia was a member, e.g. the Andean Community, already provided assistance with the implementation of the Agreement. The representative of Colombia asked whether the proponents were suggesting changes to the Secretariat policy for technical assistance.

73. The representative of the European Communities noted agreement with the aim of the proposal. The European Communities, itself a regional body, believed that unified forces led to better results. In light of the ongoing negotiations of Economic Partnership Agreement with SPS chapters, and in order to avoid duplication, the representative of the European Communities requested information on which specific regional bodies the proponents referred to. The European Communities already provided technical assistance to regional bodies.

74. The representative of Barbados noted that not all proponents had agreed to proposed changes in the text. The proponents would hold another discussion and revise the proposal, as suggested by the United States. He clarified that the proponents were not seeking to change the mandate of how the WTO Secretariat provided technical assistance. They did not see any inconsistencies with current practices. The Caribbean Food Safety Agency was an example of a body that could benefit from assistance.

75. The representative of the Solomon Islands indicated that for the Pacific region they had no particular regional organization in mind, although there were several candidates. The proponents needed a signal that they could designate regional bodies to help and provide technical assistance.

(b) Report to the Committee on Trade and Development

76. The Chairman noted that a number of Members seemed interested in continuing the discussions. He would make a factual report to the Committee on Trade and Development Dedicated Session, reporting that there appeared to be a positive sentiment towards the proposal and its objectives, but that there remained concerns on the wording. He indicated that, if the proponents so wished, discussions could continue at the next Committee meeting.

## **VII. EQUIVALENCE – ARTICLE 4**

(a) Information from Members on their experiences

77. No Members provided information on experiences related to equivalence.

(b) Information from relevant observer organizations

78. The representative of the IPPC reminded the Committee that in 2005, the ICPM had approved guidelines for the determination and recognition of equivalence of phytosanitary measures (ISPM 24).

79. The representative of the OIE recalled that the OIE Terrestrial Animal Health Code contained a chapter on equivalence, including a sequence of steps for the judgement of equivalence.

## **VIII. PEST- OR DISEASE-FREE AREAS (ARTICLE 6)**

(a) Consideration of new submissions and comments on Secretariat paper G/SPS/GEN/640

80. The representative of Brazil introduced document G/SPS/W/189 on behalf of its joint authors: Argentina, Brazil, Colombia, Ecuador, Paraguay and Uruguay. The document provided comments on the Secretariat's background paper on regionalization (G/SPS/GEN/640), notably section IV of the document which dealt with the typical steps for administrative procedures for recognition. Two particular concerns were raised in this regard: recognition by international standardization organizations should not be required for bilateral recognition; and reasonable time-frames for fulfilling the various stages of the process and criteria for bilateral negotiations should be agreed.

81. The representative of Korea stressed that the Committee should not prejudice the right of Members under the SPS Agreement to take measures based on risk assessments. The procedure outlined in G/SPS/GEN/640 duplicated the procedures established by the OIE and under consideration at IPPC. Korea was not convinced that national approval procedures could be expedited on the basis of official recognition by OIE or IPPC. Although such determinations were useful, they could undermine a Member's appropriate level of protection (ALOP). Korea opposed placing time limits on the recognition process, noting that OIE did not place any time limit on its own recognitions and highlighting the resource burden, both human and financial, which such time limits would imply. Another complicating factor was that was the form and the language in which exporters provided information. Korea was of the opinion that recognition of regionalization should be dealt with between importing and exporting Members on a bilateral basis (see G/SPS/W/195).

82. The representative of Chinese Taipei also stressed the responsibility of exporters to provide reliable information to importing Members in a timely manner, as the time taken to fulfil each step did not depend solely on the importing Member. As such, the Committee should not require Members to complete the recognition process within a certain timeframe. The representative also recalled that not all Members of the WTO were members of all of the relevant international standards-setting bodies (ISSBs). Expediting decisions on disease freedom, particularly the recovery of free status, on the basis of ISSB recognition was thus problematic.

83. The representative of the United States referred to the comparative analysis by New Zealand of the steps in G/SPS/GEN/640 and those of the ISSBs, and stressed that the steps mirrored each other. The US view was that the ISSB's own work was sufficient to guide the Committee's work on a multilateral level. Recognition of freedom by an ISSB was not a prerequisite for a bilateral determination, nor did it forfeit a Member's right to undertake its own risk assessment. The United States suggested that emphasis should be on the bilateral pursuit of regionalization determination in a transparent and predictable manner, based on consideration of relevant facts, including determinations

by IISBs. There was still some lack of clarity as to the problem which the Committee was being asked to address, and the United States proposed that, in the context of evaluating the current procedure for monitoring harmonization, Members might also wish to consider a pilot project to look specifically at Members' use of the regionalization guidelines now being developed. This would further advance understanding of practical problems experienced by Members and would also complement Members' submissions regarding their experiences with regionalization and provide useful information for the OIE and IPPC for future modifications of their standards (see G/SPS/W/199).

84. The representative of the European Communities shared the view that the SPS Committee itself was best placed to address and provide administrative guidance on how to apply the provisions of Article 6 of the SPS Agreement. Technical issues should be handled by the ISSBs, but trade problems due to administrative issues should be handled by the SPS Committee. The ultimate decision to recognize a pest- or disease-free region remained with the importing Member and very much depended on the trust in the competent authority of the exporting Member. This trust built on the veterinary/phytosanitary system in place and previous experience between the Members. Consequently, the recognition process varied from one case to another, hence there was a need for predictability and transparency. To improve predictability, the European Communities was in favour of establishing non-binding timeframes for the purpose of the parties committing themselves to provide feedback.

85. The representative of the European Communities supported increased transparency in the process, through additional notifications of recognition of regionalization. The European Communities agreed that recognition by an ISSB of status was not a compulsory first step in the recognition process. Instead the procedure should start with a formal request for the recognition of a pest- or disease-free area initiating a bilateral process of recognition before continuing steps B through J as outlined in G/SPS/GEN/640 (see G/SPS/W/190).

86. The representative of Japan considered that duplicating the work of the ISSBs had the potential to create confusion. The OIE and IPPC's work on regionalization contained administrative considerations. Timeframes for decisions would differ on a case-by-case basis, so Japan opposed establishing timeframes. There were also resource implications of receiving multiple requests for regionalization determinations, and prioritization of requests was important and should be included in the administrative steps in G/SPS/GEN/640 (see G/SPS/W/192).

87. The representative of New Zealand recalled that both the OIE and IPPC stressed the need to avoid undue delay and deliver an outcome within a reasonable period of time. Both encouraged transparency and the importance of communication throughout the process between importing and exporting countries. In this context, it was unclear what was missing from this guidance and needed to be treated by the SPS Committee through "administrative" guidance. In this context, New Zealand considered that it was important for Members to actively contribute to the OIE and IPPC standard setting processes (see G/SPS/GEN/698).

88. The representative of Egypt understood the need to set time limits for the recognition process and how this might facilitate trade, but also stressed the importance of exporters as well as importers respecting the timelines. Egypt saw value in an expedited process so long as there was no change in conditions in the exporting Member. Egypt was broadly in favour of work on administrative guidelines by the SPS Committee, with technical work remaining the responsibility of the ISSBs (see G/SPS/W/193).

89. The representative of Australia stated that her country remained unconvinced of the need for the SPS Committee to work on administrative guidelines given the on-going work by OIE and IPPC. Care needed to be taken that this work did not negatively impinge on Members' rights under the

Agreement. Australia was of the view that Members should work through the relevant ISSBs on this question. The representative of Saudi Arabia shared this view.

90. The representative of Grenada recalled that an exporting Member could begin the process of recognition from a standpoint of the non-existence of the pest or disease within the country or territory. As such, the administrative process for achieving bilateral recognition was typically preceded by a country eradicating the disease or pest in question, or by providing scientific evidence of its non existence. Once this non-existence had been demonstrated, then the recognition process could be expedited. Where the exporting and importing Members decided to use a different procedure from that established by the relevant ISSB, the procedure should be mutually agreed and include timeframes for each step, although steps should only be undertaken if scientifically necessary (see G/SPS/W/194).

91. The representative of Thailand expressed concern that the establishment of timeframes could actually prolong the recognition process. It was important for the Committee to avoid duplication with the work of the ISSBs.

92. The representative of Chile noted that regionalization was a problem which the Committee was a long way away from resolving. All agreed that the work of the ISSBs should be strengthened in relation to this question of recognition of pest or disease freedom, but it was clear that most problems actually arose at an administrative level. While it was appropriate to keep OIE and IPPC focused on the technical aspects, they should not be distracted by also focusing on administrative issues. Recognition of freedom by an ISSB did not necessarily lead to an automatic recognition of freedom by an importing Member, but it should be a basis for an expedited process. More transparency would be particularly useful to obtain a better idea of the reasons for delays in recognition.. The representative of Argentina supported Chile, remarking that the Committee had a wide remit and the task proposed by Chile and others was entirely appropriate for the Committee.

93. The representatives of Colombia, Honduras, Peru and Belize also supported Committee work on administrative guidelines, including timeframes. Honduras placed this work in the context of market access issues for fruit and vegetable exports to the United States. Belize also stressed how such work fitted its own market access needs and realities. The representative of South Africa stressed that this issue was essentially one of non-compliance with international standards. He also stressed the costs to developing country Members of maintaining such regions or zones as pest free.

94. The representative of China underlined the usefulness of the presentations from the ISSBs at the enhanced informal meeting on regionalization on 30-31 January 2006. The representatives of Argentina and Brazil agreed and suggested that such enhanced informals be held on a regular basis.

95. The Chairman underlined the breadth of the dialogue on this topic, citing the various documents which had been tabled and the large number of Members involved in the debate. From his reading of the discussion, there was agreement among Members of the need for a procedure. Most Members conceded a role for the Committee in this procedure and all recognised the value of the procedures being put in place by the ISSBs and the need to avoid overlap with those procedures. In conclusion, the Chairman requested Members to submit further written comments on this topic by early September to allow the Secretariat to update G/SPS/GEN/640. A further informal meeting on this topic would be held prior to the October Committee meeting.

(b) Information from Members on their experiences

96. The representative of Chile informed the Committee that the OIE had formally recognised Chile as provisionally free of BSE at its meeting in May 2006. He requested Members to take this fact into consideration.

(c) Information from relevant observer organizations

97. The representative of the IPPC reported a draft ISPM on "Recognition of pest-free areas and areas of low pest prevalence" had been developed, and was currently out for country comment (see G/SPS/GEN/707). The IPPC Secretariat was organizing a series of seven regional workshops on draft ISPMs, to be held in July-August 2006 and to which representatives from developing countries that are Members of the CPM would be invited. Comments on draft ISPMs would be considered by the Standards Committee at their November 2006 meeting, with the possibility of draft ISPMs going forward for approval at the Second Session of the CPM in March 2007. It had also been decided to undertake a feasibility study on the international recognition of pest-free areas, which would take into account legal, technical and economical factors and assess feasibility and sustainability of such a system. Terms of reference for the working group were adopted at the first CPM and included in document G/SPS/GEN/707. Finally, the IPPC Secretariat was in the final stages of preparing a questionnaire on the establishment and use of pest-free areas.

98. The representative of the OIE recalled that the Terrestrial Animal Health Code had undergone a major revision in 2005. The relevant chapters had been revised in May 2006, but amendments had been minor. The OIE recalled that there was no timeframe included in its procedure, as recognition could be a matter of long discussion of a number of factors including the credibility of information and the quality of the veterinary services in the exporting country. If any Member wished the OIE to include a timeframe, a request to this effect would need to be made to the OIE.

## **IX. TECHNICAL ASSISTANCE AND COOPERATION**

(a) Information from the Secretariat

99. The Secretariat recalled that a regional workshop and a national seminar had been held in Egypt, and a national seminar held in Angola, since the last Committee meeting. The Secretariat had also provided Geneva-based training for officials from Vietnam and Bhutan, as well as training for officials in a WHO course. Looking ahead, regional activities in the CIS and Colombia were planned in the coming months along with national seminars in Bulgaria, Ethiopia, Djibouti and Mexico. Another two-week specialized training course on SPS was also planned for October in English. The 2007 technical assistance plan was being put together by the Secretariat and included three regional workshops and well as a specialised SPS training course to be held in French. Provision was also being requested for a special SPS meeting on transparency and an e-learning course. The Secretary of the Committee requested Members to respect the deadlines for activities, recalling that various problems had been encountered as a result of late returns. The Secretariat planned to circulate a document on technical assistance flows before the next meeting. Also, a compilation of basic documents and decisions was being prepared, as had been requested.

100. Reporting on recent developments in the Standards and Trade Development Facility (STDF), the Secretariat recalled that the Working Group and Policy Committee had met on 8 and 9 June. At that meeting, a decision had been taken to establish a Task Force to map out a medium term strategy for the STDF. The first meeting of the Task Force was scheduled for 29 June.

(b) Information from Members

101. The representative of the European Communities provided information on an SPS seminar organized on 2-5 May for 32 administrators from African countries which concentrated on meeting EC requirements for fish imports. In addition, a course on residues in products of animal origin had been organized, as well as a training course on aflatoxin.

102. The representative of Australia informed the Committee that it had submitted a paper to the WTO Secretariat outlining technical assistance activities from January 2003 to December 2005; during this period Australian assistance had involved 250 projects to 44 countries with a value in excess of Aus\$50 million (see G/SPS/GEN/717). The representative of Japan recalled two technical assistance projects it had recently organized on OIE issues and on ISPMs for countries in the Asian region. The representative of Colombia informed the Committee of the work of its Centre for Phytosanitary Excellence (see G/SPS/GEN/702).

(c) Information from relevant observer organizations

103. The representative of the OIE recalled that an overview of its forthcoming activities could be found in document G/SPS/GEN/650/Rev.1. The representative of the IPPC drew attention to document G/SPS/GEN/705 which listed its forthcoming activities.

**X. ISSUES ARISING FROM THE REVIEW OF THE OPERATION OF THE SPS AGREEMENT**

(a) Transparency

104. Introducing its joint paper with Australia and New Zealand (G/SPS/W/197), the representative of the United States indicated that a common concern underlying many of the issues raised in the Review was less than full implementation of the transparency provisions of the SPS Agreement. Recalling the aims of the transparency provisions, she noted that more work should be done by all Members to address transparency, starting with a self-assessment by each Member of their procedures in light of the Handbook on Transparency. The Committee should focus on strengthening the enquiry points of developing country Members and in particular assist those 18 Members who had not yet established an enquiry point or the 59 per cent that had only notified once. The representative of Australia made a brief supporting statement indicating that it had started a self-evaluation of the implementation of transparency processes and was already benefitting from this in terms of improving coordination and engagement with stakeholders. The representative of the European Communities supported these proposals.

105. The representative of Argentina was concerned that other work by the Committee not be subordinated to further work on transparency, on which the Committee had already accomplished much. The representative of Chile drew attention to the problems created by the persistent failure of Members to indicate how a notified measure differed from the relevant international standard.

106. The Secretary of the Committee observed that problems with the implementation of the current provisions were evident. The periodic special meeting of the Committee on implementation of the transparency provisions was tentatively planned for 2007, and might be held jointly with the TBT Committee special meeting of enquiry points. One matter for consideration were the formats and procedures agreed by the Committee, another was how to assist Members to fully implement any agreed procedures. This latter was an area in which the Secretariat had no direct experience, and assistance should be provided by Members with well-functioning enquiry points.

(b) Relationship between the SPS Committee and the Codex, IPPC and OIE

107. The representative of New Zealand stressed the importance of avoiding duplication with the work of the standard-setting bodies, and to this end the need to clarify the roles and responsibilities of each organization (G/SPS/W/206). New Zealand suggested that it could be useful to consider the SPS Committee's role on many issues as more administrative than technical or scientific, or more high-level versus operational guidance. The SPS Committee could examine how to promote the effective use of the international standard-setting bodies to further the implementation of the SPS Agreement.

New Zealand clarified that problems with the international standards arose because: (1) a relevant standard might not have yet been developed; (2) the standard was not being used for specific reasons; or (3) the standard was inappropriate because it was not providing the guidance needed by Members.

108. The representative of Chile noted the growing number of international standards of relevance to the SPS Agreement, but the difficulties created by lack of information regarding the extent of use of these standards (G/SPS/W/203). It would be helpful if Members notified when they were applying an international standard as a national requirement, and otherwise if they clearly explained how their national requirements differed from international standards. This latter information could be brought to the attention of the relevant standard-setting bodies for their understanding of the use of their standards and the reasons for their non-use.

(c) Undue delays

109. The representative of Colombia noted that the issue of undue delays had been discussed in broad terms by various Members. Colombia proposed that the Committee consider adopting a specific procedure that could ensure the undue delays were avoided (G/SPS/W/201),

110. The representative of Chile identified a number of processes that often led to undue delays in granting market access, including extensive public hearings, repeated re-analysis of risk assessments, and decisions by independent expert groups with no recourse for appeal (G/SPS/W/202). He suggested that the SPS Committee could monitor the situation, through information from Members about specific undue delays. The representative of Costa Rica supported these suggestions

111. The representative of Honduras noted that delays often occurred because of coordination problems, in particular with Members who were part of a customs union.

(d) Consultations under Article 12.1, use of good offices, and resolution of trade concerns

112. The representative of Chile proposed a specific procedure for addressing specific trade problems, including through the use of Article 5.8 and the raising of issues as specific trade concerns at meetings of the Committee (G/SPS/W/204). The procedure would also provide, where necessary, for the use of the Chairman's Good Offices. Chile also suggested that it would also be helpful for the Committee to clarify the relationship between the SPS Committee, the WTO dispute settlement procedures and the dispute settlement procedures of the IPPC and OIE.

113. The representative of Costa Rica noted that Chile's proposal provided a useful basis for further work, which could be of interest give the costly nature of WTO disputes.

114. The representative of the IPPC offered to provide a description of the IPPC dispute settlement procedure for examination by the Committee, but noted that the procedure had not been used to date.

115. The Chairman suggested that, if Members were interested, the issues arising from the Review could be further discussed at an informal meeting immediately preceding the next regular meeting of the Committee.

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

(a) New issues

116. No Member raised any new issue under this agenda item.

(b) Issues previously raised

117. No further information was provided on issues previously raised.

(c) Approval of annual report

118. The representative of Argentina drew attention to the issue his country had raised at the previous meeting regarding the use of the OIE standard for foot and mouth disease, and asked that this issue also be included in the annual report.

119. The Committee **adopted** the eighth annual report on the monitoring of the use of international standards, based on the draft contained in document G/SPS/W/196 with the changes requested by Members and updated information from the standard-setting organizations. The report was subsequently circulated as G/SPS/42.

(d) Review of the provisional procedure

120. The Committee reviewed the operation of the provisional procedure based on the document prepared by the Secretariat (G/SPS/W/200).

121. The Committee **decided** to extend the provisional procedure indefinitely. The Committee also **decided** that it will review the operation of the provisional procedure as an integral part of its periodic Review of the Operation and Implementation of the Agreement under Article 12.7, with a view to deciding whether to continue with the same procedure, amend it or develop another one. The next such Review is to be completed in 2009, and every four years subsequently. The Committee furthermore encouraged Members to make use of this procedure to address their concerns regarding specific international standards or the need for such standards. The decision of the Committee was subsequently circulated as G/SPS/40.

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

122. The representative of the Codex Alimentarius highlighted recent developments described in more detail in G/SPS/GEN/701. In particular, the Codex Committee on Food Additives and Contaminants had proposed the establishment of a maximum level for sulphur dioxide in herbs and spices, including cinnamon, for adoption by the Codex Alimentarius Commission at its meeting immediately following the meeting of the SPS Committee. This responded to a request on this matter by the SPS Committee in the context of the monitoring of the use of international standards. Other work by Codex committees addressed, *inter alia*, aflatoxin levels in various nuts, lead in fish, dioxin contamination, pesticide residues for a number of pesticides, and methods of analysis for the detection and identification of foods derived from biotechnology.

123. The representative of the IPPC drew attention to the Expert Working Group that was being convened to consider defining the term "appropriate level of protection" for purposes of phytosanitary measures, and encouraged Members to ensure that appropriate experts were involved. He noted that the WTO Secretariat was also invited to participate in this expert group. The representative further noted the progress in work on the development of a standard for pest-free areas in fruit flies, and upcoming work on invasive species. He indicated that with the exhaustion of arrears funding, the total budget for the IPPC secretariat was 40 per cent lower than the previous year, and the number of staff had been reduced from 9 to only 5 professionals, which made it difficult to respond to the needs of all Members.



124. The representative of OIE drew attention to relevant work prepared for, and resulting from, the Annual Session in May (G/SPS/GEN/708). In particular, the surveillance procedures for BSE had been modified, and the OIE would begin to officially recognize three categories of BSE-status. The chapter of the Terrestrial Animal Health Code with regard to swine fever had been modified to include the concept of regionalization. With respect to avian influenza, revisions required notification of highly pathogenic avian influenza also in wild birds, whereas low pathogenic strains were to be notified only if they occurred in domesticated poultry. The OIE would hold a seminar in July on the use of the *Performance, Vision and Strategy (PVS) Instrument* for the evaluation of the veterinary services of OIE member countries.

125. The representative of Canada endorsed the revised chapter on BSE, including the identification of a list of products which could be safely traded irrespective of the BSE status of a country and strongly encouraged Members to base their measures on this international standard.

126. The representative of IICA reported that the SPS Initiative for the Americas had supported the participation of a total of 200 capital-based experts from 27 countries in 12 meetings of the SPS Committee since 2002. Ninety-four per cent of IICA member countries now had operational national committees to oversee the implementation of the SPS Agreement, compared to only 21 per cent in 2002. IICA had participated in the first specialized trade policy course on the SPS Agreement in October 2005, and would also participate in the follow-up workshop to this course immediately following the SPS Committee meeting. Further information on relevant IICA activities was contained in G/SPS/GEN/704

127. The representative of OIRSA indicated that he would submit a document regarding the relevant activities of his organization, which was subsequently circulated as G/SPS/GEN/709.

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

128. The Committee agreed to invite those organizations who had been granted observer status on an ad hoc, meeting-by-meeting basis to participate in its next meeting. The Committee also decided to invite all observer organizations to participate in its next informal meetings on 9 to 11 October 2006.

129. The Committee was unable to reach any decision with regard to the requests for observer status from the Office International de la Vigne et du Vin (OIV), from the Asian and Pacific Coconut Community (APCC), and from the Convention on Biodiversity (CBD), and agreed to revert to this matter at its next meeting.

### **XIV. CALENDAR OF MEETINGS IN 2007**

130. The Committee adopted the following provisional schedule for regular meetings during 2007, with the understanding that the regular meetings of the Committee would normally be scheduled for two full days, and preceded on each occasion by one or more informal meetings:

5 to 9 March 2007

25 to 29 June 2007

15 to 19 October 2007

131. The representative of Canada suggested that, following the October 2006 meeting of the Committee, the Committee should consider whether it should regularly schedule five days for its meetings.

## **XV. OTHER BUSINESS**

132. The representative of Paraguay reported on bilateral agreements reached with Argentina for the suppression of a cotton pest, as well as to permit the export of *cucurbita moschata* from Paraguay to Argentina (G/SPS/GEN/711). In addition, with regard to animal health matters, Paraguay had been recognized by the OIE as provisionally free of BSE. Paraguay had recently revised its import policies with regard to certain products from countries affected by avian influenza. Following an outbreak of FMD in 2002, Paraguay had been recertified by the OIE as a country free of FMD with vaccination in May 2006, and continued vaccination of all bovine animals. As of January 2006, Paraguay had applied a system of traceability for all individual animals (G/SPS/GEN/712).

133. The representative of Canada indicated that on 26 June, Canada had announced the imposition of an enhanced ban, banning cattle tissues capable of transmitting bovine spongiform encephalopathy (BSE) from all animal feeds, pet foods and fertilizers, in order to accelerate the control of BSE.

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

134. The Committee agreed on the following provisional agenda for its next meeting.

### **PROPOSED AGENDA FOR MEETING OF 11-13 OCTOBER 2006**

1. Adoption of 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
  - (b) Other matters relating to S&D
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. Transitional Review under Paragraph 18 of the Protocol of Accession of the People's Republic of China
  12. Matters of interest arising from the work of observer organizations
  13. Observers – Request for observer status
  14. Chairperson's annual report to the Council for Trade in Goods
  15. Other business
  16. Date and agenda of next meeting
135. The following deadlines are relevant for the next meeting:
- (i) For identifying new issues for consideration under the monitoring procedure: **28 September 2006**
  - (ii) For requesting that items be put on the agenda: **28 September 2006**
  - (iii) For the distribution of the airgram: **29 September 2006.**
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