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Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 1-2 JULY 1997

Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures ("the Committee") held its eighth meeting on 1-2 July 1997, under the chairmanship of Dr. Alex Thiermann (United States). The agenda, proposed in WTO/AIR/622 with addendum, was adopted with amendments.

2. The Chairman noted that the proposed Rules of Procedure adopted by the Committee at its meeting of March 1997 had been approved by the Council for Trade in Goods (G/L/170), and were, therefore, currently in force.

Observers

3. The Chairman noted that informal consultations regarding requests for observer status in the SPS Committee were continuing (G/SPS/W/78 and G/SPS/R/7).

Implementation of the Agreement - Information from Members

General

4. The representative of Peru informed the Committee of new legislation regarding sanitary and hygienic regulations of food and beverages for human consumption, published in May 1997. The full text of the Decree is contained in G/SPS/GEN/16.

5. The representative of Chile made a general statement regarding the practical implementation of the SPS Agreement in his country. He reported, inter alia, on the development and advancement of regional standards in MERCOSUR, the updating of bilateral agreements with certain trading partners, the establishment of a National Committee for the Codex Alimentarius, and the recognition of Chile, by a number of countries, as a country free of fruit fly[1].

6. The representative of Uruguay recalled the concern he had expressed at the last meeting of the Committee regarding Israeli import restrictions on beef. The Committee was informed that bilateral consultations were taking place and that progress had been satisfactory.

7. The representative of the European Communities informed the Committee about a decision (30 April 1997) to change the internal structure within the Commission in the area of consumer health and safety. Following an enquiry by the European Parliament regarding BSE, responsibility for all consumer health and legislation was transferred to the General Directorate for Consumer Affairs

[1]See G/SPS/GN/14.

(DGXXIV) in the Commission, including scientific analysis. Moreover, a risk analysis unit would be established in DGXXIV which would dedicate itself to risk assessment, risk management and risk communication in a horizontal manner in order to contribute to a more consistent and systematic approach in the Communities' health protection measures. A document on the matter was made available in the room.

Korean shelf-life requirements for UHT milk

8. The representative of Australia recalled the on-going bilateral discussions between Australia and Korea regarding shelf-life requirements for Ultra Heat Treated (UHT) milk. Australia expressed profound dissatisfaction with the current situation. It was noted that Korea's apparent deferral of action to bring certain of its measures into line with the requirements of the SPS Agreement had gone significantly beyond the two-year grace period in the implementation of certain provisions by developing countries. The Codex Alimentarius did not specify shelf-life for any food product and it was therefore assumed that manufacturers would determine shelf-life based on individual processing conditions. The representative of Australia noted that most importing government authorities accepted that the shelf-life of UHT milk could vary between 6 to 12 months, based on well-established scientific information. Korea had not provided any justification for its non-acceptance of manufacturers' determined shelf-life for UHT milk. Although Australia had received some tentative advice from Korea in 1996, there had been no progress on the issue by mid-1997. A number of delegations shared Australia's concerns. The representative of Canada reminded the Committee that his government had previously raised concerns regarding government mandated shelf-life requirements with respect to bottled water. The matter had been pursued bilaterally, but no resolution had been found.

9. The representative of Korea noted that his country's system for shelf-life determination, which had been initiated in 1995, set a time frame for the implementation of a manufacturer's determined shelf-life regime (notification G/SPS/N/KOR/9). Korea's manufacturers' determined shelf-life system was already applied to 260 out of 350 products and, according to plans, manufacturers' determined shelf-life would be applied to UHT milk by the end of 1998. The representative of Australia requested, in accordance with Article 5:8 of the SPS Agreement, a formal explanation from Korea as to why it was not possible to move immediately to manufacturers' determined shelf-life for UHT milk.

Switzerland and BSE concerns

10. The representative of Switzerland reminded the Committee of their concerns regarding measures taken by certain countries in relation to bovine spongiform encephalopathy (BSE) and the SPS Agreement (G/SPS/W/79). Although there had been some positive developments in this respect, the trend was not general. In particular, Switzerland addressed the following questions to Argentina, Austria, Belgium, Brazil, Canada, the Czech Republic, France, Germany, Italy, the Netherlands, Poland, Romania, Singapore, Slovakia, Spain and the United States:

(i) Have all of the measures been notified?
(ii) Will these measures soon be abolished?
(iii) If not abolished, to the extent that these measures deviate from the relevant OIE recommendations, how does the Member justify this deviation in light of Article 3.3?
(iv) If these measures are a result of the appropriate level of protection of the Member, how have the obligations and criteria of Article 5 been taken into account?
(v) At its May 1997 meeting the OIE adopted a new standard concerning the surveillance necessary with respect to BSE; in this context, how does the Member justify its claim of being BSE-free?
(vi) For those Members which have prohibited the transit of live animals, how is this justified?
(vii) For Brazil, does its membership in MERCOSUR imply specific veterinary obligations?

The representative of Switzerland stressed the interest his country had in the rapid and satisfactory solution to the problem and their willingness to continue discussions on the subject on a bilateral level.

11. The representative of Argentina informed the Committee that his government had provided replies to the Swiss questions and that additional information would be forthcoming. The representative of Switzerland expressed satisfaction with the progress achieved so far.

12. The representative of Brazil noted that the prohibition on imports of bovine semen by Brazilian authorities had been based on a decision by the Animal Health Commission of MERCOSUR, taken in July 1996. In light of the recommendations made by the first International Seminar on BSE, the Commission had classified bovine semen as a product of medium risk. Such classification implied a suspension of imports of the product from countries of high incidence of the disease as well as from countries with low incidence with native cases, such as Switzerland. Moreover, the representative of Brazil stated that the measures in question had been taken on an emergency basis as provided for in Annex B of the SPS Agreement taking into account that: (i) Brazil was a country free of BSE; (ii) Brazilian authorities were in possession of studies that suggested the possibility of transmission from mother to embryo; (iii) the fact that the disease was not well known; (iv) the disease had a long incubation period; and, (v) that its epidemiological behaviour was undefined. She affirmed that Brazil regularly examined and implemented the standards adopted by the OIE. However, Brazil had the largest commercial bovine cattle herd in the world, with 115 million head of cattle spread throughout a large territory. Nevertheless, with regard to the specific prohibition on bovine semen imports, Brazil had asked that the issue be reverted to the Permanent Working Group on Animal Quarantine of the Animal Health Commission of MERCOSUR, at its next meeting of 14-18 July 1997. The intention would be to reclassify the product as a "low-risk" product. This would permit the lifting of restraints on bovine semen imports from low-incidence countries. It was therefore possible that the issue be solved in a satisfactory manner at the next meeting of the Animal Health Commission, in August 1997. Brazil agreed to provide detailed written answers to the Swiss questions. The representative of Switzerland noted the importance they attached to regional aspects, and in particular the result of the consultation and possible decision which might emerge at the July 1997 meeting of the Working Group on the Animal Health Commission of the MERCOSUR.

13. The representative of Canada noted that there had been no changes in the applied import conditions for the importation of live cattle, bovine embryos, bovine semen, bovine meat or meat products from Switzerland due to the draft discussion document on BSE policies, and the proposed draft policy measures would not have an impact on the current bovine semen and embryo trade between Switzerland and Canada. Furthermore, Canada recognized and supported the measures approved by the 65th General session of the OIE in Paris, May 1997. In this respect, the design of the Canadian BSE surveillance system conformed to the requirements outlined in Chapter 3.2.13, and, in certain respects, even went further. The representative of Canada informed the Committee that several written comments had been received subsequent to the notification of the proposed import principles (G/SPS/N/CAN/18). It had become evident that there had been considerable misinterpretation of several of the import principles. Bilateral meetings had been held with some respondents, and Canada had undertaken to amend the text of the import policies and to revise several of the principles applied. Prior to final notification, the amended text would be distributed to those countries with whom there had been an exchange of comments. The formal policy notification to the WTO was expected to precede the promulgation of Canada's mammalian ruminant feeding ban, anticipated for 4 August 1997. The representative of Canada asserted that the final import policy would recognize the provisions and standards of the OIE International Animal Health Code and would be in full accordance with Canada's obligations under the SPS Agreement. She noted that a major concern for Canada was the lack of quantitative or qualitative parameters for the differentiation between countries with high incidence of BSE and countries with a low incidence of BSE. The representative of Canada re-extended an invitation for bilateral discussions in order to resolve outstanding concerns.

14. The representative of the United States stressed that the United States did not prohibit the importation of meat. Current Federal regulations were based on scientific evidence relating to the risks of transmission of BSE. These regulations were subject to continued review and had, in the case of bovine semen, led to the opening of trade in those products. With respect to embryos, it was the understanding of the United States that scientific evidence on possible risks related to transmission of BSE was still unresolved. The United States was closely following the on-going research and scientific discussion in the area and remained open to an exchange of information with Switzerland. A written response to the Swiss questions would be provided shortly. The representative of Switzerland noted that the United States certification requirement regarding dried meat ("viande des Grisons") for both the origin of the meat and the country of processing was not fully consistent with the statement of the representative of the United States. Furthermore, the Swiss representative hoped that the current review of US import policies would be fully in line with OIE recommendations, in particular the part of the Animal Health Code which pertained to embryos.

15. The representative of Romania informed the Committee that preliminary answers to the Swiss questions had already been provided in bilateral discussions. Prohibitions on imports of certain products which were potential carriers of BSE and scrapie from certain countries, were contained in Orders of the Ministry of Agriculture and Food, from May and June 1997. These regulations were in line with OIE recommendations. The relevant authorities in Romania were currently preparing a notification on the matter as provided for in Annex B of the SPS Agreement. The representative of Switzerland expressed satisfaction with the results of the bilateral talks with Romania.

16. The representative of Poland noted that no bilateral discussions had been held on the matter regarding BSE with Switzerland. Imports to Poland were carried out on the grounds of individual import permissions granted on the basis of applications by importing companies to the Veterinary Department. No such applications regarding imports from Switzerland had been made. If made, such applications would be considered in accordance with the appropriate procedures. According to the Swiss delegate there was a need for bilateral clarification as the nature of the problem faced by Swiss exporters did not entirely correspond to the information provided by the Polish delegation.

17. The representative of Singapore informed the Committee that countries exporting beef to Singapore were required to certify BSE-free status for the past six years. The measure was in conformity with the provisions of the SPS Agreement and would shortly be notified thereunder. The representative of Singapore stressed that their level of protection was based on an appropriate risk assessment and that the measure was applicable to all countries exporting beef and beef products to Singapore; it did not target any specific country. Countries which were free of BSE outbreaks for the past six years were able to export beef to Singapore. It was noted that Singapore's current total cattle population was less than 1000 head and all animals were imported from Australia. Singapore could thus be considered a country free of BSE. The Singapore delegation was in the process of finalizing a response to the Swiss delegation.

18. The representative of the Czech Republic noted that there had been no cases of BSE in the Czech Republic and that their apprehension with regard to imports of beef from Switzerland were based on continued occurrences of BSE in Switzerland. Czech sanitary measures in question had yet to be notified to the WTO, although these were know by the Swiss authorities, according to the representative of the Czech Republic. It was pointed out that imports of bovine semen, brain and embryos from Switzerland were not restricted. The representative of the Czech Republic stressed that his authorities would prefer that the continued discussion and exchange of information take place on the level of veterinary experts. An official answer to the Swiss questions was being prepared.

19. As at previous meetings, the representative of the European Communities noted that measures taken on a national basis by EC member States were screened for conformity with EC law before notified to the WTO. In the case of BSE, this process had taken more time than expected and, although at the time of the meeting there was no common position within the European Communities, changes to the policy were being considered. The Committee was furthermore informed that recent inspection in relation to BSE in Switzerland had generally had good outcome. Nevertheless, one of the findings of the inspection was that there had been a certain number of cases of BSE in animals born after the feed ban in 1990, which would suggest that the feed ban had not been totally effective. Regarding the OIE standards, the representative of the European Communities pointed out that a considerable number of Members, including the European Communities, had gone beyond these recommendations. This was a sign of the degree of concern with regard to BSE and the need governments felt to take a cautious attitude. The representative of the European Communities stressed that it would be useful to discuss the outcome of that inspection more directly with the Swiss delegation with the participation of the relevant experts who were knowledgeable on the subject. The representative of Switzerland hoped that the European Communities would soon be in a position to notify under the SPS Agreement and welcomed the prospect of continuing talks on a bilateral level with the relevant experts.

French certification requirements for pet food

20. The representative of the United States expressed concern regarding requirements adopted in France in September 1996, prohibiting the use of certain animal products ("high risk" material) in the manufacture of pet food (G/SPS/GEN/18). As a result of the new requirements, US pet-food exports to France had been stopped. The measure had not been notified by the European Communities to the WTO. The apparent objective of the measure was to address current concerns related to transmissible spongiform encephalopathies (TSEs), yet the measure did not account for the fact that the United States was free from BSE. Furthermore, the measure applied to pet food materials from species such as poultry and fish for which there were no TSEs. Moreover, France apparently refused to implement decisions adopted by the European Communities in December 1996 which permitted the use in pet-food of non-mammalian materials processed through specified heat treatment procedures. The United States had not, at the time of the meeting, been provided with a scientific basis for the measure in question. A number of delegations shared the US concern. The representative of Chile expressed concern with regard to the effects the regulation might have on trade in fishmeal.

21. The representative of the European Communities noted that document G/SPS/GEN/18 was not entirely accurate on two points. First, there existed a provision in French regulations by which so called "low-risk" material, whether mammalian or not, could be included into pet food and freely be exported to France. Low-risk material containing mammalian protein could be exported to the other EC member States without restrictions. Second, France had not refused to implement the EC decisions which would permit pet food made from poultry meal to enter. Acting on recommendations by a scientific committee, the French government had put into place provisions whereby the country did not accept frozen animals or dead animal cadavers to be included in the rendering of meat and bonemeal destined for being animal consumption, whether farm animals or pets. The representative of the European Communities noted that this was not necessarily a health issue, but one of image and quality and was therefore a provision which was not strictly relevant under the SPS Agreement. Furthermore, the discussion in the European Communities in the area was dynamic and a number of issues regarding the use of meat and bonemeal for feeding purposes were being discussed at the time of the meeting. In the view of the EC representative, three main options lay ahead: (i) the continuation of the present EC policy on animal feeding stuffs and meat and bonemeal rendering; (ii) the inclusion of a provision by which the European Communities would exclude dead animal cadavers from going into the rendering of meat and bonemeal for feeding purposes (as did the French government); or (iii) to follow the British line which would imply the ban on the use of meat and bonemeal altogether for the feeding to farm animals. The representative of the United States questioned the relevance of the Commission's reference

to animal carcasses in the context of discussions related to France's restrictions on petfood. Also, the United States was particularly concerned regarding the treatment of non-mammalian materials.

Cosmetics and BSE

22. The representative of the United States recalled the concern raised at the previous SPS Committee meeting regarding the European Commission Directive 97/1/EC of 10 January 1997, notified under the SPS Agreement as G/SPS/N/EEC/43. Apparently motivated by BSE related health risk concerns, the directive would ban the marketing of cosmetics and soap containing certain animal materials. It was scheduled for implementation on 1 July 1997. The representative of the United States stressed that the measure would sharply reduce, or eliminate, US exports of tallow derivatives, soap and cosmetics. The United States raised a number of concerns, which are described in G/SPS/GEN/20. The US representative requested the European Commission to inform the SPS Committee with regard to the results of the meeting of the EC Scientific Committee on Cosmetology, held in late June 1997. A number of delegations supported the US position and urged for clarification from the European Communities.

23. The representative of the European Communities stated that in light of WHO recommendations, measures had to be taken in order to ensure that there was no risk of transmission of TSEs to humans through any food or feed chain, whether for pharmaceutical or cosmetic use. The EC Scientific Committee on Cosmetology had made a statement to the effect that, in their view, tallow could be considered safe. Nevertheless, this had to be seen in light of the assumption that the tallow had gone through a clear filtration process which would ensure that there was no protein content remaining in the tallow which could harbour the BSE agent. It had also to be considered that tallow was a normal product of the rendering industry and that in the United States there existed methods of rendering which applied temperatures considerably below required levels. The Scientific Steering Committee did not endorse the opinion of the Committee on Cosmetology and, consequently, the European Commission did therefore not have the basis for undertaking changes in the decision on tallow.

24. Regarding US freedom from BSE, the representative of the European Commission noted that the EC Scientific Veterinary Committee was not prepared to recognize any country in the world as free of BSE, taking into account the difficulties of certifying such a status. The representatives of Chile and the United States expressed concern with regard to the EC position in this regard.

Poultry and Avian Influenza

25. The representative of the United States informed the Committee that subsequent to routine surveillance, non-pathogenic Avian Influenza (AI) had been detected in backyard flocks in a few North-Eastern US States. The government of Venezuela had, as a consequence of this, imposed a ban on the importation of US poultry and poultry products. The United States contested the scientific basis for this measure and expressed concern that it had not been notified to the WTO. The US concerns are described in G/SPS/GEN/19.

The Codex Alimentarius Commission and the SPS Committee

26. The representative of Australia informed the Committee that at the 22nd Session of the Codex Alimentarius Commission (CAC), held in Geneva the week prior to the SPS Committee meeting, two issues of significant concern regarding the interpretation of the SPS Agreement had been raised. Uncertainties and lack of understanding on these points was hampering the work of the Codex. The first issue concerned the status of Codex regional standards. While regional standards were clearly intended for use on a regional basis within the Codex system, the question which arose in the CAC was whether the regional applicability of these standards was recognized in the SPS Agreement. In

this regard, the representative of the Codex informed the Committee that there were only three codes of practice and two specific standards that could be described as regional by nature. Regardless of this, the representative of Australia noted, the issue remained one of principle. Members needed to consider whether it was mandatory for Members *outside* of a region for which there was a regional standard to conform with that standard, and, also, whether countries *inside* a region where there was a regional standard and who elected to conform with that regional standard put themselves beyond challenge.

27. The second issue regarded the status of Codex guidelines, codes or other instruments of a more advisory nature which were *not* referred to as standards. The representative of the Codex explained that the common practice of referring to standards as "mandatory" and other texts as "advisory" was not satisfactory, and at its last session the CAC had adopted a statement to the effect that the use of the terms "advisory" and "mandatory" would be discouraged within the Codex framework. The Codex Committees were to review the codes, guidelines and related texts under their responsibility in order to determine to what extent they should be redrafted as standards[2]. In this regard, the representative of the Codex indicated that the CAC would request clarification from the SPS Committee. The representative of the United States suggested that this communication from the Codex be shared with the OIE and the IPPC in order to obtain their comments with respect to their particular activities. Other delegations agreed that there was a need for clarification regarding the status of Codex texts and the applicability of regional standards, particularly in order not to impede standards development in the Codex. The representative of Canada, supported by Chile, stressed that it was also important to clarify the status of regional plant health standards developed under regional organizations and their relation to the IPPC.

28. With regard to the procedure for the "clarification", the representative of Switzerland noted that the sole competent body for the interpretation of WTO Agreements was the General Council or, by way of a dispute, the Dispute Settlement Body. He suggested that the Legal Affairs Division submit an opinion on the matter to be submitted to the SPS and/or TBT Committees and subsequently, if necessary, to the General Council for interpretation. The representative of Australia expressed the view that a legal opinion, although desirable, was unlikely to be helpful. He reminded the Committee of its obligation to review the Agreement and the need to be well prepared in advance of the October 1987 meeting of the Committee in this regard. A proposal by the representative of Argentina that informal consultations be held on the matter was supported by several delegations. The representative of Chile proposed that the Secretariat of the WTO endeavour to make presentations at the annual or major meetings of the Codex, OIE and IPPC on the SPS Agreement and the work of the SPS Committee, which might help clear up doubts and uncertainties.

29. It was agreed that upon receipt of the written request for clarification from the CAC, the Chairman should request comments from the OIE and the IPPC. The Chairman was also invited to schedule informal consultations on the matter and seek a legal opinion from the WTO Secretariat.

Consideration of Specific Notifications Received

Citrus canker and the European Communities

30. The representative of Argentina expressed his government's concern with the measure on citrus canker proposed in EC notification G/SPS/N/EEC/47, of 9 June 1997. The representative of Argentina requested, inter alia, that bilateral technical consultations be held with EC experts and that the application of the proposed measure be suspended during these consultations. The full text of the information provided by Argentina is contained in document G/SPS/GEN/21. The representatives of South Africa,

[2]See the full Report of the Twenty-Second Session of the Codex Alimentarius Commission, Geneva, 23-28 June 1997.

Chile, Brazil and Uruguay associated themselves with Argentina's position. The full text of the South African statement, concerning EC notifications G/SPS/N/EEC/46 and G/SPS/N/EEC/47, is contained in G/SPS/GEN/26.

31. The representative of the European Communities noted that they were preparing a response to the Argentinean concern and were open to consultations with interested parties. The European Communities were moving from a system with internal restrictions in the production areas of Italy, Greece and Corsica to a truly single market with the free movement of goods. With no restrictions on the movement of the fruit within the European Communities, and considering the risk of introduction and the economic and consequences following upon that, alternative protection for the main producing citrus areas had to be considered. These included requirements of monitoring the disease in the exporting country at the "production field" level, treatment and certification. The representative of the European Communities affirmed that the steps taken to protect the EC citrus producing areas were scientifically based and had minimized the trade effects.

Swiss notification on wheat, rye and triticale

32. The representative of Argentina, referring to the Swiss notification G/SPS/N/CHE/5 on wheat, rye and triticale, expressed concern with regard to rising trade barriers on wheat grain for industrial and planting purposes. Argentina was free from *tilletia indica* (Karnal bunt). She requested a full draft of the proposed measure, including access to the risk analysis and other scientific documents which substantiated the proposal. The representative of Switzerland assured Argentina that the scientific basis for the notified measure would be provided as soon as possible.

Any Other Matter related to the Operation of the Transparency Provisions

33. The Chairman drew the Committee's attention to the most recent list of Enquiry Points, circulated as G/SPS/ENQ/5 with three addenda, as well as the latest list of Notification Authorities, G/SPS/9, also with three addenda. Recent information on which Members had indentified Enquiry Points and Notification Authorities was circulated as a room document.

34. The representative of the United States suggested that the room document, provided by the Secretariat, be circulated as an unrestricted document. He expressed concern that a significant number of Members were not in full compliance with their transparency obligations under the SPS Agreement. In addition, only a small number of Members accounted for over half of the SPS notifications made. The representative of the United States emphasized that where used, the notification procedures had proven very useful in promoting the exchange of important information and avoiding unnecessary trade problems. Members who had not done so were urged to identify their Notification Authorities and Enquiry Points and provide the information to the Secretariat as soon as possible. The Secretariat was furthermore requested to facilitate this process by contacting Members directly.

35. Responding to a question by the representative of Chile regarding the obligation on the part of governments to respond to questions from the private sector, the Secretariat noted that the Enquiry Points were, under the SPS Agreement, obliged to provide answers to all reasonable questions from interested *Members*, in other words, governments. Some Members noted that they still experienced difficulties in terms of time delays and unanswered requests for documentation. In this regard the Secretariat drew the Committee's attention to document G/SPS/7 which details the recommended notification procedures established by the Committee.

Monitoring of Use of International Standards

36. On the basis of the proposals submitted by the European Communities (G/SPS/W/51), the United States (G/SPS/W/76 and G/SPS/W/81), as well as a Secretariat paper (G/SPS/W/58), the Chairman proposed a procedure to monitor the use of international standards, contained in G/SPS/W/82. The Chairman highlighted the importance of paragraph 6, which referred to the need to focus the Committee's discussions on concrete examples or significant trade problems. In response to initial reservations regarding paragraph 9, expressed notably by Canada and the European Communities, he explained that multilateral consultations to develop proposals to resolve issues that have a major impact on international trade would take place in relation to existing standards exclusively, with no interference in the work of the standard-setting bodies. This procedure was designed with a view to enhancing the coordination between the SPS Committee and Codex, OIE and IPPC while encouraging adherence to international standards. The provisional character of this proposal, to be subject to periodical review and adaptation, was underlined.

37. A number of delegations expressed their support for the proposal and appreciated its simplicity and practical orientation. The provisional status of the proposed system was also found to be most appropriate as it would enable the Committee to take into account changing circumstances and evolving needs. Some delegations did not exclude the possibility of examining a particular set or class of standards along the lines suggested in the original EC proposal. This approach could be conciliated with the Chairman's proposal at a later stage. Together with Switzerland, Australia suggested that topical issues, like FMD or BSE, might lend themselves to the type of systemic and horizontal analysis favoured by the EC proposal because the focus on individual countries would be avoided.

38. While agreeing that an unbureaucratic and cost-efficient procedure was needed, the EC representative felt that a systematic compilation of norms, followed by a thorough evaluation of their use or non-use and the amount of trade or trade difficulties encountered, were still required. His major concern, also shared by the Japanese delegation, was that too close a focus on "specific trade issues" would fail to preserve the neutrality of the monitoring function. The EC representative recalled that the primary objectives of the monitoring exercise were to encourage Members to use international standards and to identify, for the benefit of the relevant international organizations, where a standard was needed or was not appropriate. In addition, the European Communities feared that paragraphs 8, 9 and 10 conferred a role to the SPS Committee which was not originally intended. The Committee could not advise the standard-setting bodies on activities which fell within their exclusive competence.

39. The EC delegation indicated its intention to provide all comments and suggested amendments in writing for circulation before the next meeting of the Committee, including a list of specific areas which could be used as the starting point for designing a pilot project along the lines of its original proposal.

40. The representative of Korea found that it was unclear from the Chairman's paper whether the objective of the exercise was to monitor the process of the international harmonization or to establish a list of international standards relating to SPS measures which had a major trade impact. Korea offered to provide more specific comments at the next Committee meeting.

41. The Australian representative shared the EC's view that the purpose of the monitoring exercise was not to admonish Members for failing to conform their measures to international standards. However, Members were expected to take the opportunity under the agenda item on "specific trade issues" to draw the attention of the Committee to such specific problems they might face, including in circumstances where they believed that international standards were not appropriately applied. The focus under monitoring would be on the standards rather than on the behaviour of countries. The monitoring exercise

would attempt to identify situations in which more work was needed on the elaboration of international standards.

42. The representative of Chile suggested that given the recent changes in the status of various international standards, Codex, OIE and IPPC should be requested to provide updated versions of their listings of standards, guidelines and recommendations. The Chairman's proposal should be reorganized in a more uniform way indicating the standard, the deviation from that standard and when the standard did not exist.

43. The representative of the Codex Alimentarius Commission (CAC) reminded the Committee that in 1991, the CAC had attempted, through its Regional Coordinating Committees, to set up a project to identify standards or the need for standards, where they would have a major trade impact. At its session in June 1997, the CAC decided that this exercise had not succeeded and that it duplicated the work of the SPS Committee. The exercise was therefore discontinued. On the other hand, the Commission decided to revise and simplify the procedure for acceptance of Codex standards by its member countries. The CAC also requested the Codex Committee on General Principles to look at ways in which special or differential treatment might be accorded to developing countries in the application of Codex standards, a concern shared by the Indonesian and Thai delegations.

44. The Chairman encouraged the delegations to submit additional written comments by 16 September 1997, so as to enable the Secretariat enough time to prepare a new version of the proposal for circulation in advance of the October meeting.

Consistency

45. The Chairman indicated that the informal consultations on the development of guidelines on consistency in the application of the appropriate level of protection were initiated in 1996, and meetings were held again in March and June 1997. Good progress had been achieved on the technical aspects of the draft guidelines. At the request of several Members, the work centred on adding clarity to the text and explaining the interrelationships between the various concepts under the heading of risk analysis. With the comments and the practical examples already received, a new draft would be prepared.

46. The EC representative recalled that Article 5:5 stated an objective as far as the level of protection was concerned. It did not institute a discipline over sanitary and phytosanitary measures. The European Communities felt that some attempts were made to change the interpretation of Article 5.5 into an obligation to undertake a risk assessment, and to link risk assessment to the establishment of a level of protection (see also G/SPS/W/83).

47. In contrast, the representative of Argentina found that Article 5 in general, and Article 5:1 in particular, contained strong commitments for Members. Although Article 5.5 referred to the objective of achieving consistency, paragraphs 1, 2, 3 - and to some extent, paragraph 4 - stated commitments, and therefore obligations. A Member could be challenged over the obligation to undertake a risk assessment under these articles. The contractual obligation of Members was to achieve consistency taking into account the rationale of Article 5 in its entirety. To support this idea, the representative of the United States read the following communication from the European Commission entitled "Consumer Health and Food Safety", dated 3 April 1997, which it found to be relevant to the discussion on this issue:

> "Concerning risk management, the Commission will take into account available risk assessments as well as the recommendations transmitted by the Directorate-General responsible for scientific advice to the Directorate-General responsible for preparation of legislation. Risk management shall include the process of assessing the impact of

policy alternatives in the light of the result of risk assessment and the desired level of protection"

48. The representative of Chile reported that his country found it difficult to maintain consistency between the various approaches adopted for, on the one side, animal and plant health, and on the other side, food safety. He indicated that the only way to substantiate any claims regarding a chosen level of protection in the areas of animal or plant health was through a risk analysis. In defining its appropriate level of protection, the health status of the importing country was of primary importance. Normally, the higher the health status, the more trade restrictive was the chosen level of protection. Depending on its stage of development, a country could generally design its national health regulatory framework according to two broad directions: a developed country, taking advantage of its technological capacity, could show a greater level of acceptance, whereas a less developed country would have a more restrictive level of protection. Finally, Chile noted that the ability of an importing country to determine its appropriate level of protection also depended heavily on the quality of information supplied by the exporting country. Without such feedback, as well as mutual trust between the respective national services, the importing country would tend to adopt a more restrictive level of protection.

49. Several delegations expressed the view that the informal consultations were the most appropriate forum to build a deeper understanding on consistency and generate consensus. The Chairman extended an invitation to all interested Members to participate in the informal consultations.

Technical assistance and cooperation

50. The Chairman reminded the Committee that discussions under this agenda item served to identify the needs for technical assistance as well as possible sources of assistance. As was requested by Egypt, India and Pakistan during the last meeting, the Secretariat had prepared a document entitled "Experiences from Technical Assistance and Cooperation in Developing Countries" (G/SPS/GEN/17) which identifies the concerns and problems communicated to the Secretariat in the course of technical assistance missions.

51. The Colombian and Indonesian delegations welcomed the organization of regional seminars in Bogota this year and in South East Asia in 1998. Colombia requested that in addition to presenting the various provisions of the Agreement, the Secretariat also explained to developing countries how to take advantage of the Agreement, including by helping them understand the SPS measures notified and action initiated by other Members. Such guidance could help developing countries enhance their level of participation in the Committee. Pakistan, which supported the Colombian approach, formulated a number of comments and suggestions in G/SPS/GEN/23.

52. The Argentinian delegate feared that the suggestion in paragraph 9 of the Secretariat's paper for the centralization of laboratory testing in common regional entry ports could encourage trade restrictive practices. The Chairman explained that reference laboratories were those recognized by OIE. The proposal implied that such laboratories could assume the responsibility of providing training and assistance to countries in addressing particular diseases.

53. The representative of the Philippines requested assistance in strengthening technical expertise in pest risk analysis; manpower training in biological risk assessment and opportunities for the collection and evaluation of data; methods of analysis of contaminants in residues at the increasingly lower levels being proposed at CODEX; quality control of laboratory operations; and food safety and control. The Philippines indicated that opportunities were sought to observe national systems for food testing and inspection, surveillance and quality control laboratory operations. To support the operations of small and medium scale enterprises, the Philippines requested the organization of seminars focusing principally on the SPS measures and requirements of importing countries and, in particular, HACCP requirements. The representative of Indonesia requested that a national seminar be organized in his

country, and that technical assistance be provided for the development of a risk analysis system and strengthening of human resources. The representative of Thailand requested technical assistance in pest risk analysis. The representative of Chile requested technical assistance in developing human resources in risk analysis and, in particular, in quantitative risk analysis. In addition, Chile requested that a list of the various aspects of risk analysis in the human, animal and plant health areas, be provided, together with a list of countries that have already conducted quantitative risk assessments.

54. The OIE observer explained that technical assistance in risk analysis was difficult to envisage as long as international harmonization had not been completed. He noted that a special issue of the OIE's scientific and technical magazine registered the advances made in risk analysis. During the second half of 1997, two further issues would cover the subjects of contamination of animal products, the risks involved, and the prevention of such risks. Moreover, the OIE provided, through its publication programme, lists of practices that were implemented by a number of countries. The Chairman invited the Committee members and the relevant international organizations to provide a list of experts in the field of risk analysis to supplement the need for this kind of expertise during training events at a regional level. The OIE representative reported that the resources available to the OIE for technical assistance and cooperation with the national veterinary services were also very limited. Over the past few years, these had been reserved to a number of developing countries upon the receipt of detailed proposals. Of the proposals received and accepted by the OIE, most concerned the setting up of epidemiological monitoring systems or the eradication of animal diseases. The only SPS-related request was made by CARICOM, requesting OIE's assistance in analyzing a draft regulation, a task which was out of OIE's area of competence.

55. The representative of the IPPC concurred with the Secretariat's paper that field-related technical assistance, although it was important, competed with other concerns listed on aid agendas. Given the limited resources usually available for aid, unless donors and developing countries gave more weight to SPS matters, little could be achieved. International organizations did not have substantial resources at their disposal. Technical assistance was primarily financed from trust funds provided by donors and the FAO budget allocated for the Technical Cooperation Programme was dedicated to a very focused type of assistance. This was confirmed by the representative of the Codex Alimentarius Commission.

56. The IPPC had recently invited 15 experts, mainly heads of plant protection services of African countries, to an Expert Consultation on the International Plant Protection Convention. The IPPC representative noted that these experts had proven to be unfamiliar with the SPS Agreement. The Expert Consultation had identified a number of priority areas for action. It recommended that FAO seek resources to organize a series of regional and sub-regional meetings to draw the attention of policy makers and technical personnel to the relationship of IPPC and the SPS Agreement. Moreover, steps should be taken to build national plant protection infrastructures; design adequate scientific services and surveillance systems; and overcome the lack of properly trained staff at all levels. The report of the IPPC Expert Consultation was made available to the Secretariat.

57. The representative from the Codex Alimentarius Commission (CAC) reported that the Commission was in the process of preparing an analytical document on technical assistance in Codex matters, including food control for export and import inspection systems. This paper might be ready for the October meeting of the SPS Committee. The CAC engaged principally in three types of activities:

(a) Technical assistance activities ranging from cooperation with the WTO Secretariat in conducting seminars to the organization of national seminars in cooperation with individual national Codex contacts points. In the last 18 months, about 20 such national seminars had been organized at the request of the countries, involving Ministries of Health, Agriculture, Trade, producers, industry and consumers.

(b) Through FAO's Technical Cooperation Programme (TCP), CAC provided infrastructural support for Codex contact points or Codex national committees upon request by Codex Members. Such requests must meet the TCP criteria of FAO. Chile and Brazil were among the most recent beneficiaries of this type of assistance.

(c) FAO was also the executing agency for the United Nations Development Programme (UNDP) and other donor type projects covering food control programmes, import and export inspection systems, provision of basic legislation, guidelines on the application of standards. A lot of training was involved, considerable amount of development at laboratory level, managerial level, inspection services level. To qualify, recipient countries must meet the requirement of aid priorities established within the countries themselves.

58. The representative of the International Trade Centre (ITC) informed the Committee that the Centre was mid-way through the implementation of a three-year project concerning a follow-up of the Uruguay Round. This project, financed by donor countries and implemented in coordination with the WTO, emphasized the implications of the Uruguay Round Agreement, notably of the SPS and TBT Agreements, with a special focus on packaging and labelling requirements. Seminars had been held in more than 20 countries.

59. The representative of the United States reaffirmed his country's commitment to cooperate with the WTO, international organizations and Members in providing technical assistance and facilitating implementation of the Agreement. In 1996, the United States had participated in, and sponsored, 12 regional seminars on different SPS matters, including specific and technical work on pest risk assessment. In addition, by the end of 1997, the United States would have assisted in the training of officials and technicians from 49 Members and countries in the process of accession. Stressing that technical assistance was not a one way street, he noted that developed countries as well needed continuous updating of their knowledge and experiences in these areas. Moreover, some provisions of the Agreement, like transparency, did not require any particular technical expertise in order to be fully implemented, but only some legal or institutional changes. Internal communications within governments could probably be improved through technical assistance but positive efforts internally were also necessary.

Matters of interest arising from the work of observer organizations

The revision of the IPPC

60. The IPPC representative recalled that revision of the Convention had been recommended by the FAO Committee on Agriculture in May 1995, and approved by the FAO Conference in November 1995. An agreed text had resulted from intensive drafting sessions and would first be considered by the FAO Committee for Constitutional and Legal Matters in October 1997, whose main task would be to advise member governments on their proposed new obligations under the Convention. After the legal review was completed, the new text would be forwarded to the FAO Conference for adoption in November 1997. The revised text of the Convention would only come into force when two thirds of the parties had accepted the amendments. If delays occurred, the FAO Secretariat might propose a number of interim measures, including the establishment of an Interim Commission of Phytosanitary Measures; an authorization to the IPPC Secretariat to start work on standards for regulated non-quarantine pests; and the use of the revised phytosanitary certificate on a voluntary basis by parties.

61. The IPPC representative noted that several references to SPS-related terminology and concepts were included in the new text of the Convention. The role of the IPPC Secretariat was clarified. A Commission for phytosanitary measures was established and its broader responsibilities described. The procedure for the development and adoption of standards by the Commission was improved to replace

the rather cumbersome procedure introduced by the FAO Conference as an interim measure in response to the Uruguay Round. The parties to the Convention would be the members of the Commission, in contrast to the current practice which conferred decision-making authority on the FAO Conference. Regional economic integration organizations that were members of FAO could also become parties to the Convention, provided they held partial or full autonomy in conducting their phytosanitary matters.

62. The phytosanitary certificates were re-designed and a certifying statement was developed. Regulated non-quarantine pests were included within the scope of IPPC's work programme. The IPPC's relationship with regional plant protection organizations was redefined. Importantly, an article on technical assistance was included in the revised text. Obligations on the exchange of information were streamlined and parties to the Convention would be required to establish official contact points. The funding of the activities to be implemented under the Convention would take place within the framework of FAO's budget.

63. With regard to accreditation of inspection and certification, or parts thereof, as well as the issuing of phytosanitary certificates, the IPPC observer indicated that the national plant protection services were directly responsible for the implementation of the Convention. Regarding the degree of priority assigned to the validation of regional standards in the Commission's work programme, the standards of a regional plant protection organization were established only for the guidance of the members of that organization. To become international standards, regional standards would have to move through the normal channels established by the Convention, involving such steps as the examination by an expert group followed by an approval procedure by the Commission.

64. The representative of Japan was concerned that the revised text of the Convention could allow parties to apply trade measures which were inconsistent with the WTO Agreement. Japan felt that this issue had been insufficiently examined during the course of the negotiations on the revision of the IPPC. The IPPC representative considered that, since all the parties to the Convention would also be members of the Commission, the body which was ultimately responsible for the approval of international standards, the issue was more one of consistency and coordination between the positions adopted by countries in differing fora.

Draft agreement between WTO and OIE

65. The Committee had before it the draft agreement between the WTO and the OIE contained in document G/SPS/W/61. Further to the adoption of this text by the International Committee of the OIE during its last general session, the SPS Committee adopted the Draft Agreement. This Agreement will be forwarded for approval to the Council for Trade in Goods, and then to the General Council.

Other matters

66. The representative of the Codex Alimentarius Commission (CAC) reported on the main achievements of the 22nd session of the CAC, held in Geneva, 13-18 June 1997. A comprehensive list of food additives had been adopted by CAC on the basis of risk assessment principles covering a wide range of chemical substances. These additives could be used without specific restrictions in nearly all foods, up to the limit of good manufacturing practice, except in a limited list of foods in which their use was prohibited.

67. The General Principles for Food Hygiene had been revised. In contrast with its predecessor, the resulting code was now a risk-based document, outlining food safety objectives. The Code was accompanied by guidelines on the hazard analysis critical control point system (HACCP), another risk based food safety technique. The Code was also accompanied by principles for establishing microbiological criteria for foods.

68. Two major texts had been adopted on food import and export inspection and certification, notably the Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection Systems. This text, largely inspired from the SPS Agreement, provided guidance on applying risk assessment principles for designing such inspection systems.

69. A significant number of maximum residue limits for both pesticides and veterinary drugs had been adopted by CAC and an even larger number of obsolete maximum residue limits for pesticides had been revoked as a result of the cyclic review process of Codex. The Commission had decided not to adopt maximum residue limits for bovine somatotropin (BST).

70. Recognizing that risk analysis had become a fundamental and underlying part of its work, the CAC had adopted an action plan for the Codex-wide development of risk analysis principles and guidelines. However, it was felt that further background documentation was needed to provide coherent principles and guidelines for the application of risk analysis principles. Finally, in view of the difficulties in reaching consensus during the last session, the Commission had decided to take steps to review its procedures for the adoption of Codex standards.

71. The representative of Chile noted that during the last CAC meeting, participants had displayed a poor understanding of the SPS Agreement. Some even had doubts about its implementation. Considering also the IPPC Secretariat report on expert consultations, Chile suggested that the three standard-setting bodies include, as a regular point in the respective agenda of their annual or bi-annual meetings, a formal presentation by the WTO Secretariat on the progress achieved by the SPS Committee in the implementation of the Agreement.

72. Sharing fully the concerns expressed by Chile, the Secretariat concurred that Members' delegates to different international fora were not necessarily familiar with the SPS provisions. This frequently led to some confusion. So far, the initiatives taken by the Secretariat to enhance the level of awareness of the SPS Agreement among participants to CAC sessions for example, had taken place on an informal basis. The tight agendas followed by Codex, OIE, IPPC and WTO impeded a more formal and concerted undertaking. The Secretariat had scheduled workshops or seminars to complement the meetings of the other organizations. The Secretariat had found such events to be extremely useful from the point-of-view of feedback and opportunity for the participants to put these organizations' meetings into perspective in light of the provisions of the SPS Agreement, and would make every effort to continue this action to the extent resources permitted.

73. The representative of the CAC reported that an agenda item devoted to the SPS and the TBT Agreements appeared on each of the last three CAC meetings. Similarly, the OIE representative stated that the WTO Secretariat was given an opportunity to take the floor during each OIE General Session. OIE also reported that the level of awareness of the SPS Agreement among OIE Members was relatively satisfactory.

74. A report of the general session of the International Committee of the OIE held in May 1997, summarizing the decisions taken, was distributed as WTO document G/SPS/GEN/24. The dissemination of information relating to OIE standards is now facilitated through the OIE Web Site (http://www.oie.org). The full text of the International Zoosanitary Code is now available in the three working languages of the organization.

75. The representative of the World Health Organization (WHO) reported that, within the framework of technical assistance, a joint FAO/WHO consultative group of experts had been held in January 1997 in Rome. In cooperation with FAO, WHO had organized a consultation on the prevention of *E-coli* infections, in April 1997. The reports of the two consultations were made available in the room. Another consultation on the therapeutic aspects of *E-coli* had been held in Baltimore, United States,

in June 1997. WHO was currently elaborating guidelines addressing the problem of prevention and treatment of *E-coli*. In collaboration with the FAO and the Asian Network of Aquacultural Centres, WHO organized a study group in Bangkok in July 1997 to examine the safety of foods issued from aquaculture; biological and chemical contamination; and HACCP systems. Guidelines on aquaculture would be elaborated on the basis of FAO's Code on fisheries and in the light of the draft Codex Code on aquaculture products. Finally, to complete a series of consultations on risk analysis, WHO would hold consultations with FAO regarding the eventual organization of a third meeting of experts.

76. The Chairman requested the standard-setting bodies to provide the Committee with an updated list of standards before the next meeting, as was done in 1995 in G/SPS/W/18 (Codex), G/SPS/W/21 (OIE) and G/SPS/W/23 (IPPC).

Other business

77. The representative of the United States reported on the status of consultations with Korea regarding the latter's import clearance procedures, which had resulted in important delays and, occasionally, precluded entry of imported food and agricultural products. After five rounds of consultations under the WTO dispute settlement procedure, some Korean import clearance laws and regulations had been reformed, a progress that was welcomed by the United States. However, the US delegation reported that, since January, problems had arisen again in some ports as a result of these amendments. In addition, other import clearance requirements had recently become another source of concern. The US delegation appreciated a previous opportunity to comment on Korea's proposed changes to its food additives code and renewed its request for technical consultations on the same issue. The United States reaffirmed its determination to continue to address these concerns in bilateral consultations, until the clearance times in Korean ports were comparable to those in other similar ports. The representative of Korea assured the Committee that the US request for consultations would be duly conveyed to his authorities and requested that the scientific evidence on which the US claimed that clearance times should be equal in all similar ports of entry be communicated to its delegation so that a detailed response be prepared.

78. The representatives of Argentina and Paraguay informed the Committee that the OIE had declared both countries free from foot-and-mouth disease (FMD) with vaccination.

Date and agenda of the next meeting

79. The WTO Secretariat recalled that Article 12:7 of the SPS Agreement requires that the Committee review the operation and implementation of the Agreement three years after its date of entry into force. A new agenda item, "(i) Review of the SPS Agreement" was included in the proposed agenda for the October meeting. Informal consultations will take place to agree on the format and content of this review so as to enable the Committee to devise the most appropriate procedure at its October meeting. In view of the number of informal meetings that are still needed to tackle remaining issues, the Committee agreed that all informal meetings would be scheduled to take place prior to the regular Committee meeting. The following provisional agenda for the meeting of 14-15 October 1997 (tentative date) was agreed:

A. Adoption of the agenda

B. Observers

C. Implementation of the Agreement
   (i) Information from Members
   (ii) Specific trade concerns

D. Transparency Provisions:
   (i) Consideration of specific notifications received
   (ii) Any other matters related to the operation of transparency provisions

E. Monitoring of use of international standards (G/SPS/W/82/Rev.1)

F. Consistency

G. Technical assistance and cooperation

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

I. Review of the SPS Agreement

J. Other business

K. Date and agenda of next meeting

80. Members who wished to raise any specific concerns or examine specific notifications for the October meeting were reminded to inform other Members involved and the Secretariat not later than 5 p.m. on Thursday 2 October. The Committee took note of this request.