RESTRICTED

WORLD TRADE ORGANIZATION

G/SPS/R/9/Rev.1[*]

26 January 1998

(98-0274)

Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 15-16 OCTOBER 1997

Note by the Secretariat

Revision[1]

1. The Committee on Sanitary and Phytosanitary Measures ("the Committee") held its ninth meeting on 15-16 October 1997, under the chairmanship of Mr. Alex Thiermann (United States). The agenda proposed in WTO/AIR/692 was adopted with amendments.

Observers

2. The Chairman noted that informal consultations regarding requests for observer status in the SPS Committee were continuing. The Committee decided to revert to this item at its next meeting.

Implementation of the Agreement

Information from Members

3. The representative of Chile reported that his authorities had signed a sanitary and phytosanitary agreement with Colombia which included the SPS disciplines of transparency, harmonisation and risk analysis. Chile, which has the chairmanship of COSAVE until the end of 1997, had also chaired a meeting of regional plant protection organizations. Recalling that Chile was free of fruit fly, the representative indicated that his country had a long-standing agreement with Peru aimed at the elimination of this pest in neighbouring countries and had signed a similar agreement with Argentina in 1997. Also free of foot-and-mouth disease without vaccination, Chile had facilitated imports of meat by eliminating fat percentage requirements. Additionally, as a result of the implementation of a surveillance project regarding *Tilletia indica* in the United States, Chile had authorized imports of wheat from the United States.

4. The representative of the European Communities clarified information which had been submitted at the last Committee meeting regarding changes in the internal structure within the Commission in the area of consumer health and safety.[2] He indicated that the secretarial work of the scientific committees and the creation of a risk assessment unit were being done in DG XXIV. Whereas the inspection of legislation was also done in DG XXIV, legislation regarding veterinary and plant health and animal feeding matters remained in DG VI, while the legislation regarding cosmetics and

[*]English only

[1]New text added to paragraph 10 and new paragraphs 42 to 50.

[2]G/SPS/R/8, para. 7 refers.

pharmaceuticals was dealt with in DG III. With regard to BSE, he informed the Committee that following a joint conference between the EC Commission and the European Parliament in July 1997, the Commission would produce a consultation paper on how the European Communities should deal with animal waste and the processing of meat and bone meal. The consultation paper, which was expected to be issued before the next SPS Committee meeting, would address three options. The first option was to continue the present policy of including in the production of meat and bone meal the present categories, but requiring that mammalian meat and bone meal be processed according to strict parameters. The second option was to exclude from the processing of animal waste for feeding purposes the so-called "fallen-stock" (dead animals either at the level of the farm or during transport), reflecting the present French policy. The third option was to prohibit the feeding of all farm animals with mammalian meat and bone meal, extending the feed ban beyond ruminants to include also pigs and poultry as well as fish, reflecting the policy which was adopted by the United Kingdom since April 1996.

5. The representative of Argentina informed the Committee that bilateral consultations with the European Communities on a draft standard on imports of citrus fruit from areas where citrus canker was endemic were progressing towards a probable positive solution. Consultations with Switzerland on wheat regulations regarding *Tilletia indica* were under way, and Argentina would provide its views in writing to the Swiss authorities. Argentina argued that the certification requirements discriminated between the 38 countries members of EPPO and countries free of this disease.

Specific trade concerns

Korean shelf-life requirements for UHT milk

6. The representative of Australia indicated that his country had formally requested an explanation of the reasons why the Republic of Korea had not accepted Manufacturer Determined Shelf-Life (MDSL) for UHT milk. He expressed his authorities' disappointment with the Korean response[3], which did not meet the requirements of Article 5.8 of the SPS Agreement. He emphasized that Korea had accepted MDSL for a range of other products, including bulk UHT milk, and therefore must be cognizant of the scientific basis for this widely accepted practice. While Australia had submitted detailed information with respect to its own industry and consumer packages of UHT milk, Korea had not provided any justification for its non-acceptance of MDSL for this particular product. He requested that Korea give further consideration to its response and provide, at the earliest possible opportunity, a response which met the requirements of Article 5.8. The representatives of the United States and Argentina supported the Australian position, in particular in regard to Article 5.8 obligations.

7. The representative of Korea indicated that, as explained in previous occasions, the Korean government would apply Manufacturers Determined Shelf-Life to UHT milk by the end of 1998. However, his authorities were now reviewing the possibility of extending the current mandatory determined shelf-life of UHT milk, in accordance with the guideline on extension of food shelf-life, even before the end of 1998. To this end, the Korean authorities had already requested Australia to submit the data required under that guideline. Upon receipt of this data, the Korean government would make a thorough review of the issue. His government was fully aware of Article 5.8 and would possibly provide an explanation of the reasons for the measure now in place, when it made a final decision on this matter taking into consideration the requested supplementary data.

French decision to suspend imports of gelatin

8. The Brazilian representative indicated that since 1986 Brazilian exports of edible gelatin had been negatively affected by the French decision to impose a specific production method for all gelatin

[3]G/SPS/GEN/40 refers.

exported to France. Brazil believed that such requirements lacked scientific justification and therefore were not in line with Articles 2.2, 4 and 5.6 of the SPS Agreement. She indicated that the raw material used in the production of gelatin hide splits was classified as low risk product in terms of BSE transmission for the regions where the disease had been diagnosed. Recalling the OIE recommendation adopted in May 1996, the Brazilian delegate stressed that there had never been a case of BSE in Brazil, and all the necessary measures to prevent its entry into Brazil had been taken. Brazil could be considered a BSE-free country and therefore ingredients used in the production of Brazilian gelatin did not represent any risk of transmission of the disease. Furthermore, the methods of production used in Brazil also included thermic treatment which eliminated any other form of infectivity. Brazil enquired if the French measure had been notified under the SPS Agreement. A number of delegations, including Mexico, Argentina, the United States, Australia, Chile and Thailand shared the concerns raised by Brazil.

9. The representative of the European Communities replied that the French decision had been taken in the expectation of EC provisions which would introduce two types of conditions. One condition related to the normal sanitary requirements in terms of microbiological and chemical criteria, which had been discussed in the European Communities but had not yet resulted in a resolution. The second condition related to minimum requirements with regard to possible risks from BSE. The French requirements were similar to those applied to exports of gelatin from the United Kingdom, and were not applied on an EC-wide basis. However, corresponding parameters were normally used by large parts of the industry and this issue had not been raised as a constraint by other countries trading with France. He noted that the OIE Code required certain minimum provisions which Brazil did not fulfil, and also that Brazil had not presented an application to the European Communities requesting recognition of its TSE-free status.

EC rules on "specified risk materials" in products of animal origin

10. The representative of the United States informed the Committee of his authorities' concerns with both the public health and the trade implications of the EC Decision 97/534 EC, which banned the use of certain specified risk materials in a wide range of products (G/SPS/GEN/36 refers). He noted that public health agencies were concerned that the EC decision, if implemented as originally drafted, might directly or indirectly cause international shortages of needed medical products, which could adversely affect the health of consumers. It could also have a major restrictive impact on Member's trade in tallow, tallow derivatives, gelatine, pharmaceuticals and many food products. The representative of the United States indicated that EC's ban appeared to be more restrictive than necessary to achieve Member's shared public health objectives. By imposing the same restrictions on products sourced from the United States and other regions where BSE is not known to exist as are imposed on products from regions where the presence of BSE is well documented, Decision 97/534/EC did not appear to recognize important difference in regional disease conditions. Canada, Australia, Argentina, Brazil, Uruguay, New Zealand, the Czech Republic, Mexico, Colombia and Chile associated themselves with the concerns expressed by the US representative.

11. The representative of the European Communities indicated that the EC Commission's decision had followed the opinion of the Scientific Veterinary Committee of October 1996 and had been adopted in July 1997 by the EC Council of Ministers. Following the announcement by the British government in March 1996 of possible transmission of bovine spongiform encephalopathy to humans, scientific evaluation had been intensified in this area. Although there was no proof yet, recent scientific studies had increasingly demonstrated the existence of such possibility. Therefore, the European Communities had decided to increase its level of protection, aiming at reducing the risk, not to zero because this was impossible, but to the minimum. Whereas in the past the European Communities had banned the use of mammalian meat and bone meal to feed ruminants, that feed ban was not effective to insure that the agent would not be transmitted first to the animal population and subsequently eventually to humans through the consumption of infected material. This concern was reflected in the April 1997 decision to reinforce rendering standards.

12. However, recent inactivation studies had demonstrated that the conditions set by the April decision were not a sufficient safeguard especially in a situation of high degrees of infectivity. This additional uncertainty was taken into account by the "safe-sourcing" principle which consisted of preventing specified risk material which eventually might endanger public health from entering the process by any channel, whether feed, food or cosmetics. In terms of transmissible spongiform encephalopathies (TSE), including BSE, brain, spinal cord and retina were considered to be high risk materials by the European Communities and there were discussions in the EC Multidisciplinary Scientific Committee on whether intestines should also be included in this list. Moreover, the Scientific Committee was considering the need to abolish the 12-month age limit below which there were no prohibitions, implying that all such tissues, irrespective of the age of the animal, would be banned for any use. There were still numerous questions regarding BSE which remained to be answered, and it was for that reason that the EC Commission had decided to take a precautionary approach. The European Communities would respect its international obligations. Any Member which considered itself to be in a situation presenting no risks with regard to TSEs, could present a submission for examination by the EC Scientific Committee. This Committee had already evaluated the applications of certain Members and the EC Commission would consider what action to take in light of this evaluation. The European Communities needed to take into account other TSEs due to the links with BSE and the origin of this disease, believed to have been provoked by the feeding of scrapie-infected material from ovines to the bovine population. However, the origin of the disease might also be endemic in the bovine population and, as a result, recycling could take place through rendering systems which were not effective in de-activating the agent.

13. The Scientific Committee would also look at the issue of tallow and tallow derivatives in connection with BSE risks, and there was a possibility that, irrespective of the source, tallow derivatives might be characterized as safe provided they were treated under the stringent EC parameters of hydrolysis. The EC Commission was looking at the question of the availability of pharmaceutical products and life-saving types of medicine. However, the representative of the European Communities noted that the SRM ban related strictly to the bovine, ovine and sheep population and, at the moment, only in relation to animals over the age of twelve months. Gelatin or tallow from the porcine species or any other species could be used without difficulty. In addition, the rendering, tallow and gelatine producing industries in Europe were in the process of adjusting to the new requirements which would enter into force on 1 January 1998. Therefore, it was not expected that there would be any lack of available of source materials for the production of life-saving medicines. In the European Communities, products which had been produced with SRMs before 1 January 1998 could not legally be marketed after that date, whether they were of internal or imported origin.

14. The United States representative indicated that materials from the United States and many other Members did not contain high degrees of infectivity of BSE and that this should be a relevant consideration in this matter. Moreover, whereas it was always possible to comply with any unnecessary measure, one purpose of the SPS Agreement was to avoid having to do so. The representative of Argentina said that his country had first taken a resolution regarding BSE in 1990. He also provided copies of a booklet, which contained a BSE Risk Analysis.[4] In his view, measures which failed to distinguish between countries infected by BSE and countries not infected were contrary to the OIE recommendations and the SPS Agreement.

Switzerland and BSE concerns

15. The representative of Switzerland reminded the Committee that import prohibitions by several countries against meat products, including products originating in Switzerland, had been the object of an informal meeting of the Committee on 20 March 1997, and of a question/answer session during

[4]"Argentine Scientific Advisory Committee on Bovine Spongiform Encephalopathy (1st Meeting), 7-8-9-10 April 1997, Buenos Aires, Argentina, "Secretaría de Agricultura, Ganadería, Pesca y Alimentación".

the Committee's formal meeting of 1 July 1997. The BSE issue continued to raise serious concerns. In Switzerland, the situation was improving and BSE cases were declining significantly. Moreover, Switzerland disposed of all bovines on farms where BSE cases had occurred since 1996. However, numerous restrictions continued to affect Swiss exports of live cattle, genetic material, meat and, in certain cases, milk products. Not only were OIE recommendations not applied, but no scientific justification was provided, there was no information regarding the risk assessment methodology used, nor the resulting appropriate level of protection. Switzerland was undertaking bilateral consultations on the matter and would inform the Committee of their outcome.

Transparency provisions

Consideration of specific notifications received

Australia - Draft quarantine requirements for the importation of bovine embryos from Switzerland (G/SPS/N/AUS/56 and 57).

16. The representative of Switzerland indicated that his authorities were studying the above mentioned notifications. He questioned why such requirements applied to Switzerland only and, in particular, whether other countries with notified or actual BSE incidents, either high or low, were subject to similar requirements. Moreover, he wondered why the objective of the new requirements was to "develop import requirements … based on international standards", whereas the notification indicated that "an international standard does not exist". The representative of Australia replied that his country had developed generic conditions for the importation of ruminants and ruminants genetic material from Member states of the European Communities, but had established bilateral conditions with other trading partners. The conditions in the notified draft requirements for the importation of bovine semen and embryos from Switzerland were in accordance with Australia's general import policy relating to BSE promulgated in January 1995, and were equivalent to BSE requirements from all other countries. International standards existed and Australia did not consider that the notified draft measures deviated from such standards.

Czech Republic - Decision concerning the restriction of cattle over six months imported from Switzerland (G/SPS/N/CZE/14)

17. The representative of Switzerland raised similar questions with regard to the notification from the Czech Republic. The representative of the Czech Republic replied that an individual import permit was required for traders interested in importing goods subject to veterinary control, including live animals. His authorities considered carefully the epizootic situation in the country of origin, frequency of newly found cases of contagious diseases, efficiency of eradication programmes, etc. The import approach used was always the same and included discussions with the veterinary authorities of the country of origin. This system enabled the distinction between countries with sporadic positive cases and those with continued occurrence of cases, like Switzerland. Although the measures in place in Switzerland corresponded to the recommendations of the OIE, they had not fully eliminated risks relating to BSE, and had not stopped the occurrence of newly infected animals. Unlike other countries, Switzerland slaughtered and destroyed only BSE-affected animals, not all animals kept and fed in the same place. Such animals could be considered as suspect and a source of disease. Imports of cattle to the Czech Republic were not high, and originated in only a limited number of countries. With regard to the protocol concerning SPS and animal welfare measures in relation to trade between his country and the European Communities, the criterium used for the SPS notifications was the EC Commission Decision 794/94, reflecting a higher rate of prevention than the OIE recommendations. His authorities offered to continue bilateral discussions with Switzerland.

United States - Importation of fruits and vegetables; papayas from Brazil and Costa Rica (G/SPS/N/USA/94)

18. Brazil indicated that his authorities would comment on this notification at a later date.

Any other matters related to the operation of transparency provisions

19. The United States representative welcomed the Secretariat document (G/SPS/GEN/27 and Rev.1) which listed all Members and indicated those which had identified their Enquiry Points and/or their National Notification Authorities. He expressed appreciation to those Members which had recently provided such information. He introduced document G/SPS/GEN/37 which identified problems and shortcomings in the implementation of the transparency and notification provisions of the SPS Agreement. The United States proposed that Members organize regional workshops on the transparency provisions prior to May 1998 to explore means of addressing these issues. Several representatives expressed similar concerns and supported the US initiative. It was noted that holding regional workshops on transparency did not necessarily conflict or exclude the organization of similar workshops on notification requirements in Geneva. However, the representative of Australia noted that there was not only a need for increasing the understanding of the transparency obligations imposed by the Agreement, but a broader need to deepen the understanding of the Agreement as a whole. In his view, individuals or organizations with a very good understanding of the Agreement should be identified and used to provide the needed information at the national level. Australia was looking at various ways to improve awareness of the SPS Agreement, including by discussing SPS issues to a greater extent than in the past in meetings with other countries in its region.

20. The Secretariat indicated that over the last two and a half years it had conducted numerous regional and national seminars in the context of technical assistance, and that the transparency provisions featured prominently in the presentations. Feedback from Members in relation to specific problems was particularly important as it allowed the Secretariat to focus in a more detailed manner on such problems. Despite its limited staff resources, which largely depended on developments in the dispute settlement area, it was always possible to organize workshops in Geneva. Responding to concerns raised by certain developing countries' representatives, the Secretariat indicated that it could explore the possibility of financing the participation of some Members in these seminars through the utilization of technical cooperation funds. The Secretariat would also continue to participate in regional workshops to the extent its limited resources permitted. In regard to the notifications, the Secretariat stressed that the procedures were now working more smoothly and most notifications were rapidly processed. Notifications were promptly circulated and added to the WTO Web site in the original language 2-3 days after reception in the Secretariat, and other languages were circulated as soon as the translations were ready. Members were encouraged to send all notifications to the Central Registry of Notifications in order to avoid any delays.

Monitoring the use of international standards

21. A provisional procedure to monitor the use of international standards had been tabled by the Chairman at the meeting held in July 1997 (G/SPS/W/82). A revised version was prepared (G/SPS/W/82/Rev.1) taking into account the comments received from various delegations. Further comments were subsequently received from the delegation of the European Communities (G/SPS/W/85). The amendments suggested by the European Communities were generally found to reflect Article 12.4 more closely and were supported by various delegations. Following discussions of a further revised version of the proposed procedure, on 16 October 1997, the Committee adopted a provisional monitoring procedure, contained in document G/SPS/11.

Consistency

22. Further informal consultations on the development of guidelines on consistency in the application of the appropriate level of protection had been held subsequent to the Committee meeting of July 1997. The Chairman encouraged Members to submit additional comments in writing to the Secretariat by mid-January 1997, in order for a new draft to be ready for further consultations prior to the next meeting of the Committee.

Technical assistance and cooperation

23. Since the July 1997 meeting, the Secretariat had participated in national seminars in Uganda and Romania and had organized regional seminars in Colombia (21-22 September 1997) and India (30 September-1 October 1997). In addition, the Secretariat was planning to participate in two national workshops in Nigeria and Venezuela, to be held in November and December 1997, respectively. Furthermore, three regional seminars including SPS issues were scheduled to take place in Korea and in the Caribbean region (two seminars, including one organized by the OIE) before the end of 1997. More regional seminars in Asia and Latin America were planned for 1998. All the seminars had been organized with the active involvement and cooperation of the respective governments and the relevant international organizations. Regarding the preparation of a list of experts in the field of risk analysis, as specifically requested by the Chairman during the last meeting, no Member had to date provided any names to the Secretariat. The Codex representative indicated FAO's willingness to share with the SPS Committee a list of experts who had been identified during the course of previous consultations on risk analysis and risk management.

24. The delegations of Colombia, India and Pakistan thanked the Secretariat for the organization of the above-mentioned regional seminars. The representative of Colombia reported that the seminar held in Bogota was attended by more than 80 officials from Bolivia, Ecuador, Peru, Venezuela and Colombia, including many directly responsible for the implementation of the SPS Agreement. The representative of India reported that participants from the trade, industrial and government sectors had benefited from the seminar organized by the WTO in New Delhi and had put forward specific queries and proposals. In this respect, India offered the suggestion that, in future, seminars should be oriented to the needs of specific industries so as to enhance the effectiveness of technical assistance. India also informed the Committee of his country's specific needs for technical assistance, notably in the following areas: training of personnel, laboratory and testing procedures, and the establishment of adequate risk assessment systems.

25. Recalling previous discussions on the coordination of technical assistance activities of relevant international organizations and bilateral donors, the delegation of Pakistan wondered whether the suggestion to designate a focal point within the WTO Secretariat had been given due consideration. Pakistan also requested assistance in organizing a national seminar on the SPS Agreement in 1998, as the country's participation in the regional seminar held in New Delhi had been limited. Pakistan was further seeking technical cooperation to help his government authorities evaluate the country's training needs in SPS-related matters and design a comprehensive programme for the medium-term.

26. The Chairman informed the Committee that OIRSA had scheduled a workshop on the World Trade Organization for 25-27 February 1998 in Nicaragua and invited Members to contact the agency directly regarding participation.

27. The Codex representative introduced a paper identifying FAO's technical cooperation activities with respect to food safety and quality (G/SPS/GEN/39) in the context of the SPS and TBT Agreements. In close cooperation with WHO, Codex was completing a series of consultations on risk analysis; the last one was scheduled to take place on 2-6 February 1998. A joint FAO/IAEA expert consultation on validation of analytical methods for food control was to be held on 2-4 December 1997.

28. The representative of WHO reported that WHO continued to closely cooperate with many donor agencies and international organizations, both on a bilateral and multilateral basis. A recently launched project with UNIDO aimed at the strengthening of food safety control systems in seven sub-Saharan developing countries. This programme sought to harmonize the national food legislations with international requirements; introduce food safety assurance measures using risk-based assessment systems; and advise governments on the development of food control infrastructures and enforcement policies. WHO also participated in a sub-regional seminar on risk assessment in Oman. The WHO representative introduced a newly-edited brochure, copies of which were made available in the room, that provided guidance to the public health sector and formulated recommendations on capacity-building of national food control systems.

29. The representatives from WHO and Codex invited WTO Members to submit their requests for technical assistance through their respective WHO or FAO representatives at regional or national levels.

Matters of interest arising from the work of observer organizations

Revision of the International Plant Protection Convention (IPPC)

30. The representative of the IPPC reported on the developments surrounding the revision of the Convention (G/SPS/GEN/33). The FAO Committee for Constitutional and Legal Matters (CCLM) had met to discuss the legal issues associated with the revised text. Whether the revised text entailed new obligations would have a bearing on how quickly the new Convention would be adopted by IPPC contracting parties, especially if a lengthy ratification process could be avoided. According to the IPPC, the CCLM was likely to recommend that FAO adopt a position that would ensure that no new obligations were imposed on IPPC contracting parties. The primary objective of the revised text was rather to create an environment which would promote the effective operation of the Convention. Among the most significant features of the revised text were the adoption of interim measures, provisions to designate national contact points and provisions for the immediate adoption of an amended phytosanitary certificate. According to the IPPC representative, there would be more activities in the near future to help members understand this new environment. IPPC encouraged WTO Members to work with their respective capitals to promote acceptance of the revised Convention.

Clarification of references to Codex texts

31. The Codex representative reminded the Committee that during its 22nd session in June 1997 the Codex Alimentarius Commission (CAC) had sought clarification on (a) how to differentiate standards, guidelines or recommendations in relation to the implementation of the SPS Agreement and (b) the status assigned to Codex regional standards and related texts by WTO agreements. A specific request from Codex had been circulated in document G/SPS/W/84. The Chairman informed the Committee that a number of useful suggestions regarding what might constitute an appropriate response had been made during informal consultations on the subject. A draft response on the basis of those inputs would be circulated for consideration by the Committee at its next meeting in March 1998.

Other activities relevant to the work of the SPS Committee

32. Two expert meetings jointly convened by WHO and other international organizations addressed food safety considerations for aquaculture products and for irradiated products. Document G/SPS/GEN/38 summarizes information on these consultations, which had resulted in technical recommendations intended for direct use by governments as well as by the Codex Alimentarius Commission.

33. In response to the Chairman's request to the relevant standard-setting bodies to provide updated lists of standards, guidelines and recommendations, documents G/SPS/GEN/29 (Codex), GEN/30 (OIE) and GEN/31 (IPPC) had been circulated. The Committee took note of these documents.

34. The Chairman informed the Committee that the draft agreement between the OIE and the WTO (G/SPS/W/61) had been approved by the Council for Trade in Goods at its meeting of 21 July 1997, and that it would be submitted to the General Council for consideration at its October meeting.

Review of the SPS Agreement

35. The Chairman reported on informal consultations that had been held to discuss the nature, scope, and timing of the Review exercise explicitly referred to in Article 12.7. A draft procedure had been elaborated on the basis of comments and suggestions from Members and provided to the Committee.

36. The Chairman clarified that the inclusion of a target date for completing the Review (November 1998 between square brackets) merely reflected the idea that such an exercise was not an open-ended process. Another deadline could be identified at a later stage, once the Committee had gained a better understanding of the task before it. Similarly, the deadline of 15 January for receiving lists of topics for discussion at the March 1998 meeting was only for the purpose of starting the process. The procedure was flexible and additional topics could be added to the preliminary lists after the stated deadline. In response to questions on the meaning of the phrase "consideration of the future work programme", the Chairman explained that once the topics to be studied were identified, a work programme would be proposed to the Committee, grouping items and suggesting the sequence for the discussions.

37. The Committee adopted the procedure to review the operation and implementation of the Agreement (G/SPS/10).

Report by the Chairman on the work of the Committee in 1997

38. In order to facilitate the annual review of WTO activities by the General Council, the Chairman proposed to submit, under his own responsibility, a brief report to the Council for Trade in Goods on the Committee's activities in 1997. A draft of the report had been circulated and discussed during informal consultations.

39. The representative of the European Communities stated that even though BSE had become a salient item during the course of the discussions, the topic was inappropriately singled out in the Chairman's report. BSE issues should be referred to in a purely factual manner. Other delegations suggested that a more complete list of other specific trade issues should be enumerated. References to other tasks carried out by the Committee needed to be substantiated, namely in relation to the guidelines to further the practical implementation of Article 5.5; the recent agreement on a procedure to initiate the Review of the operation and implementation of the SPS Agreement; and the technical assistance activities undertaken by the WTO Secretariat in SPS-related matters.

40. The Chairman noted that the comments and suggestions received from Members would be taken into account in the final report. Furthermore, the submission of the report was without prejudice to the inputs that might be required from the Committee in the context of the 1998 Ministerial Conference. The Committee took note of the report by the Chairman (subsequently distributed as G/L/197).

Provisional calendar of meetings for 1998

41. The Chairman proposed to hold four meetings in 1998 instead of three, in view of the additional time required to conduct the Review of the operation of the Agreement. The Committee adopted the following provisional schedule of meetings for 1998:

12-13 March 1998
10-11 June 1998
15-16 September 1998
11-12 November 1998

It was noted that informal meetings (for example on Article 5.5 guidelines and on the review exercise) would, to the extent possible, be scheduled to immediately precede the formal meetings of the Committee.

Other business

42. The representative of the United States reported on his government's ongoing bilateral consultations with Korea, under the provisions of Articles XXIII of GATT 1994, on Korea's import clearance procedures. He noted that some progress had been made. However, in addition to the remaining unresolved issues of principle, the United States was concerned by reports of continuing problems with implementation of certain changes that Korea had previously agreed to make to its administrative and legal requirements. The United States expected that implementation of these and other changes would result in significantly shorter delays in clearing agricultural and food products through Korean ports.

43. The representative of the Republic of Korea expressed his disappointment to see this issue repeatedly featured on the Committee's agenda. This repetition could negatively affect the perceptions of Korea's trading partners regarding the import clearance system applied, which Korea believed was in full compliance with the provisions of the SPS Agreement. Korea explained that the previous requirement that all ingredient percentages be reported had been abolished by an amendment to the Ministerial Ordinance of the Food Sanitation Act in December 1996. Under the new system, the reporting of percentages was only required for the main ingredients, other ingredients being cited only by names. As for the requirement dealing with the provision of manufacturing process information, its purpose was to facilitate the automatic exemption of a given company and product from laboratory examination. Furthermore, it was not mandatory for all importers. Finally, regarding the technical consultations on the Food Additives Code, the Korean delegate believed that his government had already responded to the concerns expressed by the United States. Nonetheless, the continued concerns expressed by the United States would be conveyed to the competent authorities in Seoul.

44. The representative of Thailand reported that Mexico had prohibited the importation of Thai milled rice since 1989 because of infestation with *Karnal smut*. In November 1994, a group of Mexican experts had visited Thailand and had concluded that the rice would be completely cleared of the fungus at the milling stage, and thus would not present any phytosanitary danger to Mexico. Moreover, reports confirmed the existence of the fungus in Mexico, for which no official controls were currently implemented. In September 1996, the Mexican government had informed the Thai authorities that the prohibition would be lifted and replaced by a new import regulation. Despite consultations at very high levels of government between both countries on several occasions, no substantial progress had been achieved. Thailand believed that the Mexican measure was inconsistent with Article 2:2 of the SPS Agreement, as well as with Articles I and III of GATT 1994. The delegation of Mexico assured the Committee that this matter would be followed-up, particularly in light of the bilateral consultations held with Thailand.

45. The Thai delegation was also concerned by the import ban imposed by Korea on frozen chicken. Korean experts had been satisfied after visiting facilities of the Thai poultry industry. Nevertheless, the Thai commercial office in Seoul recently confirmed that Korea had banned Thai frozen poultry because of listeria. The ban was not notified in advance, which, according to Thailand, was in breach of Article 7 of the SPS Agreement. The Thai delegation expressed its determination to pursue this matter with Korea in order to resolve this issue. The delegation of Korea was not in a position to provide any explanations at this stage since they had been given little advance notice, and requested Thailand to submit detailed information in writing.

46. The representative of Argentina raised a certain number of questions with reference to document G/TBT/Notif. 97.357 of 21 July 1997. According to that notification, Japan authorized imports of Foot-and-mouth disease (FMD) inactivated vaccine (but only the O type of FMD inactivated virus), and exempted traders from undergoing the usual approval procedures beforehand. Three countries were designated as suppliers: Germany, the Netherlands and the United Kingdom. Argentina sought some clarifications regarding (a) the current FMD-status of Japan since the decision to import FMD vaccines took effect; (b) the criteria used to designate only three sources of supply, especially in view of the fact that Argentina had exported 12 million units of the same products, produced in conformity with OIE standards, to Chinese Taipei; (c) whether Japan considered itself a "zero-risk" country and whether a risk assessment had been carried out by Japan in support of this "zero-risk" status; and (d) since Argentina was declared free from FMD with vaccination by the OIE, how Japan viewed its current policy not to import Argentinean meat. The representative of Japan explained that the measure notified was an amendment to the approval procedures regarding the import of vaccines for emergency purposes. The action taken by Japan was a precautionary measure following the outbreak of Foot-and-mouth disease in Chinese Taipei in March 1997. The Argentinean delegation indicated that they would provide their questions in writing to the Japanese delegation.

47. The representative of Chile noted that some legal actions and decisions taken by local governments could disrupt trade flows and even jeopardize the functioning of the SPS Agreement. In one instance, Californian judges had requested the US Department of Agriculture to undertake an environmental analysis before accepting imports of goods. In another instance, after Chilean phytosanitary authorities had taken a decision regarding the entry of weeds, they were threatened to be subject to legal proceedings initiated by the exporting country, unless the exporting country was declared a "low-risk" or a "zero-risk" country. Another related issue concerned the need for the streamlining or reform of national regulatory frameworks. As many as 5 signatures were sometimes required to clear the entry of goods into a territory.

48. Chile and Peru sought some clarifications regarding the EC directive governing the exports of fishmeal to the European Communities, which enforced strict controls over salmonella. The fact that it was only applied to fishmeal was found to be discriminatory since similar rules were not applied to substitutes to fishmeal nor competing products that could be potentially contaminated with salmonella, as had been confirmed by recent research carried out in the United Kingdom.

49. The EC delegation, in a preliminary response, indicated that the EC directive was justified on the basis of the available scientific information on animal feeds, whether bone-meal or fish-meal. For competing types of feedingstuffs, for example those of vegetable origin, working groups within the EC had been considering whether to introduce similar provisions. The conclusion reached by several EC Member states was that there were not sufficient grounds for introducing such a requirement in terms of microbiological criteria. Some other EC Member states, however, had introduced national requirements stipulating that heat treatment must be undertaken to get rid of salmonella and other risks. According to the EC delegate, there was no element of discrimination since fish-meal was recognized as a more risky type of product.

50. Another issue raised by Chile concerned the unilateral imposition of import prohibitions by France and Italy affecting fishmeal for feeding ruminants, including in mixtures with bonemeal, under the alleged objective of preventing risk arising from contamination. The EC delegation indicated that it needed to effectively enforce the mammalian protein feed ban to ruminants. With the present methods, the European Community was facing practical difficulties in trying to segregate the origins of the various mammalian raw materials, including fish. There were no EC requirements in this respect. The EC delegate indicated that this issue would be examined more closely, together with the two Member states involved.

51. The delegation of the European Communities expressed concern over the import requirements for ware potatoes imposed by the Czech Republic, notified in G/SPS/N/CZE/12 and 13. Document G/SPS/GEN/42 reproduces the full statement made by the EC delegation whose standpoint was that no scientific principles supported the regulation. Moreover, recourse to equivalent methods of sprout treatment was not allowed. Referring to the newly-circulated list of Codex international standards, the EC delegation pointed out that a maximum residue existed for the active ingredient involved .

52. The representative of Argentina was concerned that, in order for the pesticide to effectively impede sprouting, it must be applied before harvest. This made it impossible for producers to take a post-harvest decision to export to the Czech Republic. The final destination of a product (post-harvest decision) was in fact limited by the type of treatment selected (pre-harvest decision) and this clearly constituted a non-tariff barrier to trade. Alternative, internationally-recognized anti-sprouting pesticides existed which could be effectively applied post harvest. Also, it was not clear to Argentina whether the registration procedure concerned the entire product formula or only the active ingredient.

53. The representative of the Czech Republic explained that tubers of ware potatoes other than seed and other potatoes needed to be treated according to national legislation, as notified to the WTO (G/SPS/N/CZE/6, dated 27 March 1996). An official statement to that effect should appear on the phytosanitary certificate delivered by the exporting country. The national legislation stipulated that imported plant products could not be put in circulation domestically if they contained residues of active plant protection ingredients not registered in the Czech Republic. In practical terms, this meant that seed potatoes could be imported if treated with another product containing the same active ingredient as the one already registered in the Czech Republic. Only one product had been approved so far but a registration procedure was under way for the approval of a second active ingredient. According to the Czech delegation, the rules governing the registration procedure were at the root of the problem, not the phytosanitary requirement *per se*. Although bilateral consultations had been held, the Czech representative believed that there had been little opportunity to discuss the matter at a technical level. The bilateral channels for resolving the issue, notably within the framework of the European Association Agreement, were far from exhausted.

54. The delegation of the European Communities sought clarification on another Czech regulation requiring warehouses and silos for storing cereals for animal feeding to be under state control for purposes of quality assurance. The Czech representative regretted that advance notice had not been given to his delegation of the EC intention to raise this issue, nor had the EC veterinary delegate in Budapest forwarded any concern to the relevant Czech authorities. In addition, the Czech Republic informed the Committee that, within the framework of the Protocol for veterinary and phytosanitary cooperation with the European Union, both harmonized and non-harmonized conditions existed for individual commodities. The grain products affected by the Czech regulation were most likely within the non-harmonized category. The Czech Republic indicated that they wished to pursue the matter bilaterally with the EC veterinary delegate at expert level.

Date and agenda of the next meeting

55. The next meeting of the Committee is scheduled for 12-13 March 1998. The following items will be included on the agenda:

A. Adoption of the agenda

B. Observers

C. Implementation of the Agreement
   (a) Information from Members
   (b) Specific trade concerns
      (i) Switzerland - BSE related measures

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

E. Monitoring of use of international standards (G/SPS/11)

F. Consistency

G. Technical assistance and cooperation

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

I. Review of the SPS Agreement (G/SPS/10) - Report on consultations

J. Other business

K. Date and agenda of next meeting

56. Members who wish to raise any specific concerns or examine specific notifications for the March 1998 meeting were reminded to inform other Members involved and the Secretariat not later than 5 p.m. on 27 February 1998. The Chairman also reminded delegates that comments and suggestions for the Guidelines on consistency (Article 5.5) and the Review exercise (Article 12.7) should be submitted to the Secretariat by 15 January 1998. Members' input to the Monitoring Procedure (Article 12:4) were requested by 6 February 1998. The Committee took note of these requests.

_____