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Working Party on the Accession of Kazakhstan

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WORKING PARTY ON THE ACCESSION OF KAZAKHSTAN TO THE WTO

SUBMISSION BY THE REPUBLIC OF KAZAKHSTAN

Revision

The following submission is being circulated to Members of the Working Party, at the request of the Delegation of the Republic of Kazakhstan.

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- Sanitary and Phytosanitary Measures

(a) Legislative Framework

1. The representative of Kazakhstan stated that the legislative basis for the regulation of the Sanitary and Phytosanitary (SPS) regime in Kazakhstan was established by the following: **the Treaty of the Eurasian Economic Union of 29 May 2014 (hereafter – the EAEU Treaty),** CU Commission Decision No. 625 "On Harmonization of CU Legal Acts in the Field of Sanitary, Veterinary and Phytosanitary Measures with International Standards" of 7 April 2011 (as amended by CU Commission Decision No. 722 of 22 June 2011 and EEC Collegium Decision No. 11 of 7 March 2012); CU Commission Decision No. 721 "On Application of International Standards, Recommendations, and Guidelines" of 22 June 2011; EEC Collegium Decision No. 212 "On Regulation on the Uniform Procedure of Carrying out Examination of Legal Acts of the Customs Union in the Sphere of Implementation of Sanitary, Veterinary and Phytosanitary Measures" of 6 November 2012, which had replaced CU Commission Decision No. 801 of 23 September 2011; CU Commission Decision No. 835 "On Equivalence of Sanitary, Veterinary or Phytosanitary Measures and Carrying out Risk Assessment" of 18 October 2011 as amended by EEC Collegium Decision No.17 of 11 February 2014, EEC Collegium Decision No. 161 "On Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures" of 18 September 2012, **as amended by EEC Collegium Decision No. 56 of 19 March 2013,** and the EEC Collegium Decision No. 31 "On Ensuring Transparency in the Process of Adoption of Acts of the Eurasian Economic Commission in the Sphere of Application of Sanitary, Quarantine Phytosanitary and Veterinary-Sanitary Measures" of 5 March 2013**, as amended by EEC Collegium Decision No. 161 of 13 August 2013**.

2. **The legal basis for the sanitary policy within the Eurasian Economic Union was provided in Section XI (Articles 56-57) and Annex 12 of the EAEU Treaty. These provisions replaced** CU Agreement on Sanitary Measures of 11 December 2009 (as amended by Decision of the Interstate Council of EurAsEC No. 39 of 21 May 2010, CU Commission Decision No. 887 of 9 December 2011), **which was terminated when the EAEU Treaty came into effect on 1 January 2015. The legal basis for the sanitary policy was also provided** in Decision of the Interstate Council of the EurAsEC No. 83 "On Entering into Force of Protocols of 21 May 2010 in the Sphere of Implementation Sanitary, Veterinary-and-Sanitary and Phytosanitary Measures" of 19 May 2011 and CU Commission Decision No. 299 "On the Application of Sanitary Measures in the Customs Union" of 28 May 2010 (as last amended by CU Commission Decisions No. 341 of 17 August 2010, No. 456 of 18 November 2010, No. 571 of 2 March 2011, No. 622 of 7 April 2011, No. 828 of 18 October 2011, No. 829 of 18 October 2011, No. 888 of 9 December 2011, No. 889 of 9 December 2011, Decisions of the EEC Council No. 36 of 15 June 2012, No. 37 of 15 June 2012, No. 64 of 20 July 2012, No. 115 of 17 December 2012, Decisions of the EEC Collegium No. 32 of 19 April 2012, No. 33 of 19 April 2012, No. 34 of 19 April 2012, No. 89 of 13 June 2012, No. 111 of 19 July 2012, No. 117 of 19 July 2012, No. 141 of 23 August 2012, Nos. 206 and 208 of 6 November 2012, No. 114 of 17 December 2012, No. 6 of 15 January 2013). A consolidated version of CU Commission Decision No. 299, as amended, was

available at the following EEC webpage: http://www.eurasiancommission.org/ru/act/texnreg/depsanmer/regulation/Pages/Санитарные-меры.aspx (also available at http://www.tsouz.ru/db/techregulation/sanmeri/Pages/default.aspx), which was regularly updated.

3. **The legal basis for the veterinary policy within the Eurasian Economic Union was provided in Section XI (Articles 56, 58) and Annex 12 of the EAEU Treaty. These provisions replaced** the CU Agreement on Veterinary and Sanitary Measures of 11 December 2009 (as last amended by the Interstate Council of EurAsEC Decision No. 39 of 21 May 2010), **which was terminated when the EAEU Treaty came into effect on 1 January 2015. The legal basis for the veterinary policy was also provided in** CU Commission Decision No. 317 of 18 June 2010 "On the Application of Veterinary-Sanitary Measures in the Customs Union" (as last amended by CU Commission Decisions Nos. 342 of 17 August 2010, 455 of 18 November 2010, 569 of 2 March 2011, 570 of 2 March 2011, 623 of 7 April 2011, 724 of 22 June 2011, 726 of 15 July 2011, 810 of 23 September 2011, 830 of 18 October 2011, 831 of 18 October 2011, 834 of 18 October 2011 and 893 of 9 December 2011, EEC Council Decision No. 85 of 12 October 2012, EEC Collegium Decisions No. 254 of 4 December 2012, No. 274 of 14 December 2012, No. 307 of 25 December 2012, EEC Collegium Decision No. **192** of **10 September** 2013, EEC Collegium Decision **No. 244 of 29 October 2013, EEC Collegium Decision** No. 294 of 10 December 2013, and EEC Collegium Decision No.18 of 11 February 2014), CU Commission Decision No. 607 of 7 April 2011 "On Common Forms of Veterinary Certificates on Goods Subject to Veterinary Control **Imported** into the Customs Union Territory" (as amended by CU Commission Decisions No. 832 of 18 October 2011 and No. 892 of 9 December 2011, EEC Collegium Decisions No. 262 of 4 December 2012 and No. 308 of 25 December 2012, EEC Collegium Decision No. 245 of 29 October 2013, and EEC Collegium Decision No. 19 of 11 February 2014), CU Commission Decision No. 624 of 7 April 2011 "On Regulation on the Procedure of Development and Maintenance of the Register of Companies and Persons which Carry out Production, Reprocessing and (or) Storing Products Subject to Veterinary Control (Surveillance) and Imported into the territory of the Custom Union", CU Commission Decision No. 726 "On Veterinary Measures" of 15 July 2011, CU Commission Decision No. 834 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 18 October 2011 as amended by EEC Council Decision No. [xxx] of [xxxxx], EEC **Collegium** Decision No. [xxx] "On Amendments to the Common Veterinary (Veterinary And Sanitary) Requirements Applicable to the Goods Subject to Veterinary Control (Surveillance)" of [xxxxx], and EEC Council Decision No. 33 "On Amendments to the Common List of Goods Subject to Veterinary Control (Surveillance)" of 16 May 2013, CU Commission Decision No. 833 "On Equivalence of Systems of Inspection of Objects of Veterinary Control (Surveillance)" of 18 October 2011. A consolidated version of CU Commission Decision No. 317, as amended, was available at the following EEC webpage: http://www.eurasiancommission.org/ru/act/texnreg/depsanmer/regulation/Pages/Ветеринарно-санитарные-меры.aspx which was regularly updated.

4. **The legal basis for the phytosanitary policy within the Eurasian Economic Union was provided in Section XI (Articles 56, 59) and Annex 12 of the EAEU Treaty. These provisions replaced** the CU Agreement on Plant Quarantine of 11 December 2009 (as last amended by the Decision of the Interstate Council of EurAsEC No. 83 of 19 May 2011), **which was terminated when the EAEU Treaty came into effect on 1 January 2015. The legal basis for the phytosanitary policy was also provided in CU** Commission Decision No. 318 "On Assurance of Plant Quarantine in the Customs Union" of 18 June 2010 (as last amended by CU Commission Decision No. 528 of 28 January 2011, CU Commission Decision No. 894 of 9 December 2011, EEC Council Decision No. 50 of 16 August 2013, **CU Commission Decision No. 25 of 24 April 2014),** the Decision of the Interstate Council of EurAsEC No. 76 "On the Process for Transfer of Control from the Russian-Kazakh Border to the External border of the Customs Union" of 15 **March** 2011. A consolidated version of CU Commission Decision No. 318, as amended, was available at the following EEC webpage: http://www.eurasiancommission.org/ru/act/texnreg/depsanmer/regulation/Pages/Фитосанитарные-меры.aspx, which was regularly updated.

5. In addition, the following nine **EAEU** technical regulations were adopted, which set food quality and safety requirements: CU Commission Decision No. 880 "On Food Safety" of 9 December 2011 (as amended by EEC Collegium Decisions No. 129 of 11 June 2013, No. 147 of 25 June 2013 **and No. 91 of 10 June 2014**), CU Commission Decision No. 881 "On Labelling of Food Products" of 9 December 2011, CU Commission Decision No. **882** "On Products of Fruit and Vegetable Juices" of 9 December 2011, CU Commission Decision No. 883 "On Fat and Oil Products" of 9 December 2011, CU Commission Decision No. 874 "On Safety of Grain" of 9 December 2011, EEC Council Decision No. 34 "On Safety of Certain Types of Specialized Products, Including Dietetic Healthy and Dietetic Prophylactic Meals" of 15 June 2012, EEC Council Decision No. 58 "On Safety of Food Additives, Flavourings and Processing Aids" of 20 July 2012, EEC Council Decision No.67 "On Safety of Milk and Milk Products" of 9 October 2013, and EEC Council Decision No 68 "On Safety of Meat and Meat Products" of 9 October 2013. The list of adopted **EAEU** technical regulations was available at the following EEC webpage: http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Pages/tecnicalreglament.aspx.
The section of the Food Safety Technical Regulations pertaining to **fish and** fish products currently was not applied and would become applicable upon entry into force of the corresponding sectoral technical regulation.

6. The representative of Kazakhstan further stated that national legislation remained in effect to the extent that it did not contradict the **EAEU Treaty**, CU Commission Decisions and EEC Council and Collegium Decisions. She further explained that issues not specified by the above-mentioned **Treaty** and Decisions were dealt with by the national legislation, in particular – Law No. 339-II "On Veterinary" of 10 July 2002; Government Resolution No. 407 of 28 April 2003, which approved the following: (1) Regulation on the State Veterinary and Sanitary Control, (2) Rules for Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health, or Mandatory

Decontamination (Disinfection) and Processing Without Withdrawal Thereof, (3) Rules and Conditions of Compensation to Legal and Natural Persons of the Value of Removed and Destroyed Infected Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health, (4) List of Highly Contagious Animal Diseases, when Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health are to be Held, (5) List of Highly Contagious Animal Diseases, Prevention, Diagnosis and Eradication of which are Implemented at the Cost of the Budget, (6) Rules of State Veterinary and Sanitary Control During Movement of Objects Across the State Border of the Republic of Kazakhstan, and (7) Rules of Organization of Veterinary Control Posts at the State Border and Customs Checkpoints; Government Resolution No. 1754 "On Approval of Organization of Slaughtering of Agricultural Animals Intended for Subsequent Sale" of 4 November 2009; Government Resolution No. 2331 "On Approval of Identification of Agricultural Animals" of 31 December 2009; Government Resolution No. 132 "On Approval of Rules of Issuance of Permits for Exportation, Importation and Transit of Objects with Regard to Evaluation of Epizootic Situation in the Territory" of 19 January 2012; Government Resolution No. 149 "On Approval of Rules of Transportation (Movement) of Objects on the Territory of the Republic of Kazakhstan" of 21 January 2012; Government Resolution No. 165 "On the Approval of the Rules for Entry (Importation) of Food Products Subject to State Registration" of 19 February 2008; Law No. 301 "On Food Safety" of 21 July 2007; Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009; Government Resolution No. 125 "On Approval of the Rules for Assignment of Registration Numbers to Entities Producing Food Products" of 11 February 2008; Government Resolution No. 2267 "On Approval of the Rules for Refusal for Entry, as well as for Production, Use and Sale of Products Intended for Human Consumption, on the Territory of the Republic of Kazakhstan, as well as for Use in Business and (or) Other Activities" of 30 December 2009; Law No. 344-I "On Plant Quarantine" of 11 February 1999, Law No. 331-II "On Plant Protection" of 3 July 2002; Government Resolution No. 1295 "On Approval of the List of Quarantine Facilities, Alien Species and Extremely Dangerous Pests" of 10 December 2002, as last amended by Government Resolution No. 1351 of 11 September 2009; Government Resolution No. 1287 "On Approval of the Rules on Withdrawal and Destruction of Quarantine Products, Infected by Quarantine Objects, Not Subject to Decontamination or Processing" of 3 November 2011; Government Resolution No. 1730 "On Approval of the Rules for Protection of the Territory of the Republic of Kazakhstan from Plant Quarantine Objects and Alien Species" of 30 October 2009; Government Resolution No. 1674 "On Approval of Phytosanitary Requirements to Imported Quarantine Products" of 30 December 2011; and Government Resolution No. 1396 "On Approval of the Rules on Registration Tests and State Registration of Pesticides (Chemical Insecticides) in the Republic of Kazakhstan" of 30 November 2011.

(b) Competent Authorities for the Regulation of Trade in Agricultural Products

- (i) **EAEU** Authorities and Responsibilities

7. The representative of Kazakhstan explained that **Eurasian Economic Commission (the EEC or the Commission) became the successor of the CU Commission as of January 2012. Within the EAEU** institutional framework for regulating in the sphere of SPS measures, the role of the Commission had been to coordinate the development and implementation of SPS measures by **the EAEU member States**, which involved their respective sanitary, veterinary, and phytosanitary authorities. The Commission laid out common general principles and adopted common safety requirements for goods marketed within the territory of the **EAEU**. These safety requirements covered sanitary and epidemiological, veterinary, and phytosanitary regulations that governed production and trade of the **EAEU**.

8. The EEC was established as a single permanent regulatory body of the **EAEU** by **Article 18** of the **EAEU** Treaty. The EEC consisted of a Council and a Collegium. The competences of the Council and Collegium were stipulated in **Annex 1 to the EAEU Treaty**. The Council had a right to veto the decisions adopted by the Collegium. The Council had the following competences with respect to SPS measures:

- adoption, introduction of amendments and addenda into the Common Lists of Goods subject to Sanitary-Epidemiological Surveillance, Veterinary and Quarantine Phytosanitary Control;
- adoption and introduction of amendments and addenda into the Regulation of Sanitary and Epidemiological Control, Regulation on Common Procedure for Conduct of Veterinary Control, Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance), and the Regulation on Common Procedure for Conduct of Quarantine Phytosanitary Control.

The Collegium had responsibility for the rest of the issues, including the adoption and introduction of amendments and addenda into the Common Veterinary Requirements and Common Forms of Veterinary Certificates, the Common Sanitary Requirements, and the Common **Quarantine** Phytosanitary Requirements.

9. Developing SPS measures at the **EAEU** level involved specific technical and administrative expertise via working groups, which reported to the Consultative Committee. Functions and interactions of the working groups and the Consultative Committee were defined by specific regulations: the Regulation of Working and Expert Groups on SPS and TBT approved by the Protocol No. 5 of the Coordination Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures of 7 December 2010 and the Regulation on Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures approved by the EEC Collegium Decision No. 161 of 18 September 2012. The current practice for development of draft **EAEU** legal acts on SPS measures was as follows:

- **an EAEU member State** or the EEC initiated the development of a draft **EAEU** legal act. **An EAEU member State** responsible for developing the draft was appointed or the EEC acted as a developer;

- a working group, including representatives of **the EAEU member States'** competent authorities was established to review the draft;
- a draft document that was discussed and approved at a working group meeting, was then submitted to the Consultative Committee for publishing on the **EAEU** official website for public consultations. **The EAEU** draft SPS texts were published at the following web-page: http://www.eurasiancommission.org/ru/act/texnreg/depsanmer/publ/Pages/default.aspx. The period for public consultation was two months. The comments were collected by the Department of the Sanitary, Phytosanitary and Veterinary Measures of the EEC;
- after the process of public consultation, all comments and questions were discussed within the working group. In accordance with EEC Collegium Decision No. 31 as amended by Collegium Decision No.161 of 13 August 2013, the Department of the Sanitary, Phytosanitary and Veterinary Measures, within 30 days after expiration of the public consultation period, compiled a summary table of comments and answers, based on the discussion that took place in the **EAEU** working group to examine those comments, and published it on the official **EAEU** website. This table of comments and answers took into account comments received in the framework of WTO SPS notifications of **the EAEU member States**. A final revision of the draft document was discussed and approved by the working group and submitted to the Consultative Committee;
- the draft document was reviewed at the meeting of the Consultative Committee. In case the draft was approved, it was submitted to the Collegium for approval; and
- the Collegium either adopted the **EAEU** documents which were under its competence or in other cases approved the drafts before submitting them to the Council for adoption.

In reply to a specific question from a WTO Member, the representative of Kazakhstan explained that currently the fixed time-frame – 60 days – was established only for public consultations on SPS measures. The length of the other stages of the process of development and approval of SPS legal acts depended on the time required for reaching a consensus by all **EAEU member States**.

- (ii) National Authorities

10. Kazakhstan's veterinary service consisted of the Division of Veterinary and Food Safety at the Ministry of Agriculture, and the Committee of Veterinary Control and Supervision under the Ministry of Agriculture. The Division of Veterinary and Food Safety was in charge of strategic planning in the sphere of veterinary safety, including budgeting. The Committee of Veterinary Control and Supervision was in charge of developing rules and regulations in this area and conducting veterinary control and surveillance of the objects of veterinary and sanitary control and surveillance, including on the State border, epizootic welfare, as well as the veterinary surveillance of establishments. In addition, the veterinary control framework included (i) veterinary control posts; (ii) the oblast, city and raion territorial branches of the Committee of Veterinary Control and Supervision; and (iii) subordinated State veterinary organizations (National Reference Center for Veterinary, Republican Anti-Epizootic Entity, and Republican Veterinary Laboratory. Executive functions in the sphere of veterinary were transferred to local executive bodies of the respective administrative-territorial units (oblast, city, raion, etc.), which included veterinary branches, as well as State veterinary organizations to conduct veterinary measures.

11. **In February 2014,** the Committee **of Consumer Rights Protection of Ministry of National Economy of the Republic of Kazakhstan (hereinafter the Committee of Consumer Rights Protection) replaced** the Committee of State Sanitary and Epidemiological Surveillance of the Ministry of Health. **The Committee of Consumer Rights Protection** was the

authorised body responsible for issues related to sanitary and epidemiological welfare. Functions of the **Committee of Consumer Rights Protection** were specified by the Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009. The representative of Kazakhstan said that the Division of Phytosanitary Safety of the Ministry of Agriculture was in charge of strategic planning in the sphere of phytosanitary safety, including budgeting. The Committee of State Inspection in the Agro-Industrial Complex of the Ministry of Agriculture of the Republic of Kazakhstan was in charge of developing rules and regulations in this area and conducting phytosanitary control including border control, measures on protection of plants from pests, monitoring of agricultural lands against plant pests and diseases.

12. With regard to participation in international organizations in this sphere, she said that as a member of the World Organisation for Animal Health (OIE) since 1993, Kazakhstan intended to follow the provisions of the Terrestrial and Aquatic Animal Health Codes and Manuals. For the purpose of application of OIE Code, Kazakhstan had ratified the International Agreement on Establishment the OIE (the Law of the Republic of Kazakhstan No. 109-IV of 24 December 2008). In addition, Kazakhstan had ratified the Convention for the Establishment of the European and Mediterranean Plant Protection Organization, in March 2004 and the International Plant Protection Convention, in April 2010. She further explained that Kazakhstan was a member of Codex Alimentarius Commission since 2005. Hence, the international standards, recommendations and guidelines of the OIE, IPPC and Codex Alimentarius would be applied in Kazakhstan.

(c) Development of Technical Regulations/Mandatory Requirements on SPS

13. The representative of Kazakhstan explained that **EAEU member States** also elaborated mandatory requirements for products within technical regulations. These could be adopted by the EEC, pursuant to:

- **Article 52 and Annex 9 of the EAEU Treaty**;
- Decision of the Council of the Eurasian Economic Commission No. 48 "On the Regulation on Development, Approval, Amending and Cancellation of Technical Regulations of the Customs Union" of 20 June 2012.

14. The representative of Kazakhstan explained that the aim of the ongoing legislative and implementation work in the **EAEU** and Kazakhstan was to ensure harmonization with the standards, guidelines, and recommendations of the World Animal Health Organisation (OIE), the International Plant Protection Convention (IPPC), and the Codex Alimentarius (Codex). This work, in her view, would ensure full compliance of the SPS regime of Kazakhstan, whether measures were adopted in the context of the EEC or domestically, with the requirements of the WTO SPS Agreement from the date of accession of Kazakhstan to the WTO.

15. She added that the approaches towards harmonization of the **EAEU** measures and the Kazakh domestic regulation of sanitary and phytosanitary issues with the standards, guidelines, and recommendations of these international organizations were defined in the framework of **the EAEU Treaty**, Commission decisions and participation of Kazakhstan in the activities of the relevant international organizations. She explained that CU Commission Decision No. 721 of

22 June 2011 "On Application of International Standards, Guidelines and Recommendations", provided that: in cases in which the Commission or the national authorities had not established mandatory requirements in the veterinary, or phytosanitary, or sanitary epidemiological and hygienic sphere, the **EAEU member States** would apply standards, recommendations and guidelines of the OIE, IPPC, and the Codex Alimentarius (Codex) respectively. Similarly, if **EAEU** veterinary, phytosanitary and sanitary-epidemiological and hygienic mandatory requirements in effect in the territory of the **EAEU** were more stringent than relevant international standards, guidelines and recommendations, in the absence of scientific justification of risk to human, animal, or plant life or health, relevant international standards, guidelines, and recommendations, or parts thereof, would be applied.

16. Some Members asked Kazakhstan to provide details on the EurAsEC and EEC processes for elaborating SPS Technical Regulations and whether EurAsEC requirements would supersede or replace EEC, **EAEU** and national requirements.

17. The representative of Kazakhstan stated that draft technical regulations, including those related to SPS, were developed in the participating countries using internal procedures before being proposed by the authorised national bodies. For Kazakhstan, the MOA or the **Committee of Consumer Rights Protection**, as assigned by the Government of Kazakhstan, proposed SPS technical regulations to the designated EEC bodies for harmonization, further review, and adoption as provided for in the relevant international agreements or **EAEU** decisions. Currently, development **of the technical regulations of the EurAsEC** had been suspended at the EurAsEC level based on EurAsEC Inter-state Council Decision No. 575 "On Elimination of Technical Barriers in Mutual Trade of EurAsEC **member States** on the Basis of the Technical Regulations System of the Customs Union" of 19 October 2011. The procedures of the development of technical regulations of the **EAEU were laid down in the EEC Council Decision No. 48 of 20 June 2012**. In the **EAEU** framework, the Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures (the **EAEU** Consultative Committee) **fulfilled coordination and transparency role in the process of development of EAEU technical regulations. In particular, it** received draft technical regulations from the authorised bodies of the **EAEU member States**, prepared analysis and recommendations on draft technical regulations, and coordinated the development of draft text and resolved disputes concerning it among the authorities of the **EAEU member States**.

18. The representative of Kazakhstan also explained that, under the **EAEU**, any domestic or foreign natural or juridical person or governmental or non-governmental body could develop a draft technical regulation provided that the development of a technical regulation was included into respective schedule outlining the development of priority technical regulations of the **EAEU** and it was approved by the authorised body for such works. Third-country interested parties, including foreign governments, could provide comments on draft technical regulations proposed by any of the **EAEU member States**, as established in paragraph 8 of the EEC Decision No. 48.

19. Responding to a question on how draft technical regulations not based on international standards, recommendations or guidelines could be revised prior to their application, she stated that the applicable laws and **EAEU** acts specified the priority use of international standards, recommendations and guidelines, as the basis for technical regulations and that the technical regulation developer (relevant **EAEU member State's** authorised body or the EEC) was required to provide his assessment on how the draft was consistent with international standards in his notification of the draft for public comment. The technical regulation developer was also required to identify the standards, recommendations and guidelines, used in developing the draft technical regulation. When Kazakhstan was responsible for developing technical regulations, it designated a state body responsible for development of the draft technical regulation (hereinafter – the developer of draft technical regulation). The developer of draft technical regulation prepared the first draft of the technical regulation and based on proposals from the competent authorities of the **EAEU member States**, formed an **EAEU** working group that included experts representing government bodies, academia and business/consumers associations and other interested parties. The draft technical regulation was discussed at the **EAEU** working group meetings. The **EAEU** working group would take into account the requirement to use international standards, recommendations and guidelines, and, if necessary, propose appropriate changes. Upon completion of the first draft of the technical regulation, the developer of the draft technical regulation sent the draft, an explanatory note, and a notification on development of the technical regulation to the EEC. The EEC ensured consideration of the first version of the draft technical regulation and related set of documents at the meeting of the Consultative Committee. Following the consideration by the Consultative Committee, the decision on starting date and period of public consultations on the draft technical regulation was made, which was formalised by a Protocol. In cases when Consultative Committee decided that further revisions were necessary, the developer of the draft technical regulation within the period established by the Consultative Committee revised the draft technical regulation and the set of related documents.

20. The public consultation began when the EEC placed the draft technical regulation, the notification on its development, and an explanatory note on its official website. This information was also published at the official websites of the authorised bodies for technical regulation of the **EAEU member States**. Interested domestic and foreign juridical and natural persons (including those from non-members of the **EAEU**), including foreign governments, could submit their comments and proposals on the draft technical regulations to the EEC. The period for comments was at least 60 days following the publication of the **notification on development of** draft of the technical regulation by the EEC. Kazakhstan intended to notify the SPS-related draft technical regulations to the WTO SPS Committee in parallel to the public consultation. In case of significant changes in the draft technical regulation, there would be a new round of public consultations and new WTO notification would be sent to the WTO Secretariat. The EEC processed comments and proposals received from interested parties during public consultations and WTO notification procedure and sent them to the developer of the draft technical regulation. The developer of draft technical regulation within 20 working days from the date of receiving comments and proposals from the EEC ensured the discussion of the comments and proposals by the working group and

prepared a summary of comments, which included information on their acceptance or justification for their rejection, and sent it to the EEC. In accordance with EEC **Council** Decision No 48, the EEC published on its website the table of comments and answers. The developer of draft technical regulation within 30 working days from the date of sending summary of comments to the EEC revised the draft technical regulation and the related documents taking into account comments and proposals received during the public consultations, specifically those comments that were based on international standards, guidelines and recommendations. The EEC sent the draft technical regulation and related documents to the **member States** for their internal approval and published them on the official website. Upon completion of the internal approval of the draft technical regulations by the **member States**, the draft technical regulation was sent to the Consultative Committee that submitted it to the EEC Collegium for approval. The draft technical regulation and related documents, and disagreements that could not be solved during the negotiations were considered by the EEC Collegium. After the consideration, the EEC Collegium submitted the draft technical regulation and related documents either to the EEC Council for approval, or to the developer for revision. The EEC Council adopted the final draft technical regulation at its meeting. The representative of Kazakhstan noted that any amendments to a technical regulation were adopted by the same procedure.

21. The representative of Kazakhstan explained that a schedule outlining the development of priority technical regulations of the CU had been adopted by CU Commission Decision No. 492 of 8 December 2010**, which was replaced by EEC Council Decision No. 103 of 23 November 2012 that approved the** schedule **of development of technical regulations of CU for 2012-2013. Under these schedules**, as of **July 2014**, SPS technical regulations governing food safety, labelling of food products, grain, juice products, oil and fat products were adopted by CU Commission Decisions in December 2011; SPS technical regulations governing specialized products, including dietetic meals and food additives were adopted by the EEC Council Decision in June and July 2012, respectively; SPS technical regulations governing milk and milk products, meat and meat products were adopted by the EEC Council Decisions in October 2013; SPS technical **regulation** governing safety of feed stuffs and feed additives **had completed public consultation procedures, while technical regulations on safety of** fish and fish products, alcoholic beverages and tobacco products had completed **both public consultations and internal approval procedures** as of **May 2014**. **From 1 August 2014, technical regulation On Safety of Bottled Potable Water was published for public consultations. Additionally,** the Schedule on Development of CU Technical Regulations for 2012-2013 **provided for the development of the** following SPS Technical Regulations: On Safety of Poultry and its Products; On Safety of Products in Contact with Food**, which were currently under development**.

22. She further explained that a schedule outlining the development of EurAsEC priority technical regulations had been adopted by Decision of the EurAsEC Interstate Council No. 521 of 19 November 2010. Included in this schedule were SPS technical regulations on grain, food safety, labelling of food products, tobacco products, juice products, oil and fat products, milk and milk products, honey and products of bee-farming, and on the safety of bottled water. However,

currently the development of EurAsEC technical regulations **had been suspended** by **the Decision of the EurAsEC Interstate Council No. 575 of 19 October 2011**. Members of the Working Party asked for clarification as regards the overlap between the **EAEU** priority technical regulations and the EurAsEC priority technical regulations. The representative of Kazakhstan explained that a choice had been made to focus on the adoption of **EAEU** technical regulations, since the **EAEU** procedure for adoption of technical regulations was faster.

23. [The representative of Kazakhstan confirmed that, for so long as Kazakhstan was a EurAsEC Party, if the work on EurAsEC SPS related technical regulations was resumed, Kazakhstan would ensure that its enquiry point's website would provide information regarding the resumption of that work, and [in accordance with the WTO SPS Agreement, including Annex B of the WTO SPS Agreement] notify draft EurAsEC SPS related technical regulations [to WTO Members through the WTO Secretariat], provide copies of the drafts, [and other related documents in accordance with Annex B of the WTO SPS Agreement] upon request and provide the possibility to provide comments to the drafts. The Working Party took note of these commitments.]

24. The representative of Kazakhstan explained that the Commission had adopted [**34**] out of **60 planned EAEU** technical regulations, including those related to SPS matters, by **June 2014**, and that all of these technical regulations would enter into force, after a transitional period to allow producers, importers, and exporters to become aware of and comply with the new technical regulations. [A minimum period of six months between the date of publication of a technical regulation and the date of its entry into force was established in the Decisions adopting the technical regulations in order to allow entities to be able to comply with the provisions of a new technical regulation or amendments to a technical regulation. Currently, amendments into Decision No. 48 were being considered in order to envisage this rule in the **EAEU** legislation.] Notification of when **EAEU** Technical Regulations entered into force and superseded national technical regulations would be posted on the **EEC** website. In response to a question from a Member of the Working Party, the representative of Kazakhstan confirmed that no new national technical regulations were being developed.

25. The representative of Kazakhstan explained that **the EAEU Treaty**, once it entered into force, **was** the international **treaty** of Kazakhstan, and, with the exception of the Constitution and Constitutional Laws of Kazakhstan, would prevail, in the event of a conflict, over the provisions of laws and other normative legal acts in Kazakhstan (whether adopted before or after the **EAEU Treaty**). With regard to Commission Decisions, she explained that such decisions had the legal status in the Kazakh domestic legal system corresponding to that which the decision would have had if adopted by the Government or Executive body which had been competent to regulate the subject matter at the moment when the Commission was delegated the relevant authority. She explained that Kazakhstan did not repeal a national law when **EAEU** acts applied, but these were amended to **refer to** the **EAEU** act. Pending this alignment, domestic SPS measures continued to apply in so far as they did not conflict with the **EAEU** act.

26. Some Members expressed concern about the overlap between **EAEU** Technical Regulations and other **EAEU** Decisions in the veterinary and sanitary fields. For example, Members noted overlaps and contradictions between CU Decision No. 299 and CU Technical Regulations, such as the Food Safety Technical Regulation. Members also noted overlaps and contradictions between CU Decision No. 317, in particular, the CU common veterinary requirements, and Annex 5 to the Food Safety Technical Regulation, which appeared to contain veterinary requirements. Members sought clarity on what requirements were applicable for imported goods. In addition, those Members identified overlaps between different Technical Regulations, i.e. between the Food Safety Technical Regulation and the vertical Technical Regulations such as the Technical Regulation for grain, meat, dairy, etc. A Member noted discrepancies in tetracyclines levels in the technical regulation for meat on the one hand, and in CU Decision No. 299 and Food safety Technical Regulation on the other hand, and asked to confirm that the levels indicated in Annex 5 paragraph 43(1) of the meat technical regulation were given priority. They asked if exporters could find all applicable requirements in the vertical Technical Regulations.

27. The representative of Kazakhstan with **respect** to sanitary measures **noted** that in accordance with **Paragraph 2 Article 57 of the EAEU Treaty, the Common** Sanitary **Requirements, adopted by the CU Commission Decision No. 299 and applied to products to which** technical regulations **were to be developed**, had to be **included** into the relevant technical regulations. In other words, Decision No. 299 **remained as "reference document", codifying all sanitary requirements to products. Sanitary requirements contained in EAEU** technical regulations **had** to **be identical to the requirements of the Decision No. 299. When a sanitary requirement was changed, public consultation of amendments into Common Sanitary Requirements and the relevant EAEU technical regulation would be held simultaneously.** With regard to veterinary requirements, **she further clarified that in accordance with Paragraph 3 Annex 9 of the EAEU Treaty, EAEU technical regulations could contain veterinary-sanitary and quarantine phytosanitary requirements only of general nature, for example the requirement to accompany a product with veterinary certificate. In addition,** Kazakhstan had raised the issue of duplication and inconsistencies in the technical regulations and **EAEU decisions** at the **EAEU** level. At present, there were two draft amendments to the **EAEU** technical regulation On Food Safety. The first draft went through public **consultations** in **July** 2013 and was sent to the **EAEU member States** for internal approval. The second draft **went through** public consultations **in July 2014**. These amendments, among other things, were aimed at elimination of discrepancies in the **EAEU** documents.

28. Regarding the discrepancy between horizontal and vertical technical regulations it should be mentioned that with regard to veterinary measures there were no discrepancies. Moreover, according to Article 3, paragraph 1 of the **EAEU** technical regulation On Food Safety, "the technical regulation shall be applied taking into account the requirements of the **EAEU** technical regulations that establish mandatory requirements for certain types of food products and related requirements to the processes of production (manufacturing), storage, transportation, marketing and utilization, complementing and (or) specifying the requirements thereof". In addition, the requirements for

certain types of food products and related requirements to the processes of production (manufacturing), storage, transportation, marketing and utilization established in other technical regulations of the **EAEU** could not change the requirements of the horizontal technical regulation On Food Safety. **Horizontal technical regulation of the EAEU "On Safety of Food Products" established requirements that were common to all types of food products, in particular:**

1) **general** safety requirements (including sanitary and epidemiological, sanitary and veterinary) to food products, and to production processes (manufacturing), storage, transportation, marketing and utilization**;**

2) **general** rules of identification of objects of technical regulation;

3) forms and procedures for assessment (confirmation) of conformity of objects of technical regulation with the requirements of the technical regulation.

Vertical technical regulations of the **EAEU** "On Safety of Meat and Meat Products" and "On Safety of Milk and Dairy Products" established specific requirement to the relevant products, in particular:

1) terminology;

2) **specific** safety requirements for meat and meat products, milk and dairy products, as well as the processes of production (manufacturing), storage, transportation, marketing and utilization, which complement requirements of the technical regulations "On Food Safety";

3) **specific** rules for identification of meat and meat products, milk and dairy products;

4) **specific** requirements for labelling of meat and dairy products;

5) conformity assessment schemes.

29. Some Members expressed concern about the overlap of **EAEU** and national SPS measures and the continued adoption of SPS measures at the national level in the **EAEU member States**. These Members noted that these amendments were not necessarily with a view to harmonize national requirements with **EAEU** requirements. In their view, this resulted in uncertainty regarding application and compliance with SPS measures and placed a significant burden on trade, possibly in violation of the WTO SPS Agreement. Moreover, continued development and application of domestic measures in each of the **EAEU member States** could result in a lack of harmonization of requirements and increased burden on trade within the territory of the **EAEU**. These Members requested information from Kazakhstan regarding precisely which SPS measures would apply in Kazakhstan and throughout the territory of the **EAEU**. These Members also requested information on when domestic authorities would cease developing and applying domestic SPS measures. The representative of Kazakhstan confirmed that national SPS measures, when in conflict with **EAEU** SPS acts, would not apply to the extent of the conflict. She specified that as regards matters covered by **EAEU** acts, Kazakhstan had ceased adopting amendments of national SPS measures, for purposes other than alignment of national measures with **EAEU** acts, since 1 January 2012. Until that date, a transitional period allowed the adoption of national measures when preparatory technical work had started before 1 July 2010. These national measures were applicable only in so far as they did not contradict **EAEU** acts. Some Members asked if alignment of national measures with **EAEU** acts had to occur within a specified time

period, and if so, what period applied. In response, she explained that there was no specified time period for such alignment.

30. Some Members asked Kazakhstan to describe the exact delineation of competences between the **EAEU**/EEC and the national authorities. The representative of Kazakhstan responded that the EEC had responsibility for establishing specific product requirements, except in the area of phytosanitary requirements. This meant that for veterinary and sanitary control, the Commission and EEC, as of January 2012, had established a list of goods that could be subject to veterinary requirements, and a common list of goods subject to unified sanitary requirements. There was one unified process for control of movement of these products between the **EAEU member States**, i.e., within the territory of the **EAEU**, and control at the external **EAEU** border. The EEC Commission had also (in CU Decision No. 834) established *inter alia* unified procedures for inspection of facilities for inclusion in the Register of authorised facilities. Furthermore, guidelines for conducting inspections of establishments, which would clarify the requirements applicable to these facilities, would be adopted by the EEC **[**by the date of **the first EAEU member State's] [prior to** Kazakhstan's] accession to the WTO which would then supersede relevant domestic normative legal acts. With regard to phytosanitary measures, the Commission established the list of products subject to phytosanitary control and developed a draft unified list of quarantine organisms which was under discussion between the **EAEU member States** after public consultation procedure. The **EAEU member States** also intended to develop and adopt **EAEU** common phytosanitary requirements for regulated products. Thus, the competence for phytosanitary requirements would be transferred from national authorities to the EEC Collegium. However, until the common list of quarantine organisms and phytosanitary requirements were adopted, competence remained with the national authorities of each **EAEU member State** at the national level.

31. With regard to other issues, where the national bodies retained authority to regulate, the representative explained that national bodies established requirements in respect of processes for manufacturing products domestically and penalties in the respective administrative code for violation of SPS requirements. National authorities also developed strategies for managing animal diseases; adopted temporary SPS measures, i.e., emergency measures, in the cases of receipt of justified information about danger of imported goods; established sanitary requirements for organization of work activity of companies in the sphere of food catering services; aligned national sanitary-epidemiological and hygiene requirements with **EAEU** requirements; and agreed on sanitary-safety zones (i.e., norms related to water safety and applicable only domestically). With regard to phytosanitary issues, national authorities were responsible for surveillance and eradication of quarantine organisms, domestic quarantine zones and internal phytosanitary posts.

32. She further explained that this division of competence between the EEC and national authorities could evolve with the harmonization of requirements at the **EAEU** level and how the **EAEU member States** addressed these issues. Competence would be delegated to the **EAEU** as part of this process. The representative of Kazakhstan referred, as an example, to **EAEU member**

States' intention to harmonize quarantine and phytosanitary measures of **the EAEU member States**. Thus, competence would be transferred from national authorities to the **EAEU** bodies as harmonization of requirements at the **EAEU** level occurred.

33. The representative of Kazakhstan explained that the process of harmonization of national laws with **EAEU** acts on SPS matters was taking place at the same time and in a parallel process to adoption of Commission/EEC decisions on SPS matters. She clarified that only sanitary safety limits set at the **EAEU** level could be applied on the territory of the **EAEU member States**. That is, the **EAEU member States** could not adopt specific MRLs or other sanitary requirements at the national level in the absence of those at the **EAEU** level. She further clarified that at the national level, Kazakhstan had introduced amendments into the national legislation in order to align them with the **EAEU** legal framework. In particular, the Law "On Veterinary" was amended on 30 June 2010 (entered into force on 1 July 2011) and 12 January 2012 in order **to** remove veterinary control on the border with **EAEU member States** and retain such control only on the state border concurring within the **EAEU** customs territory and to abolish registration of feed stuff, except for feed additives, respectively. The Government Resolution No. 132 governing issuance of import permits was also developed in compliance with the provisions of the **EAEU** Common Veterinary Requirements. The Law "On Plant Quarantine" was amended in July 2012 in order to remove the requirement of import permits.

34. Some Members noted that several documents called GOST or MUK appeared to contain SPS requirements; however, these documents did not appear to be legal requirements. These Members asked Kazakhstan to confirm that those documents could only be considered as guidelines and could not be used to impose restrictive measures on trade if the requirements set-out in these documents were not met. In particular, these Members asked Kazakhstan to confirm that there were no legal requirements that set a compulsory frequency of self-checks or official checks at the level of the producing establishments for residues or microbiological levels in food.

35. In response, the representative of Kazakhstan explained that GOST were non-binding recommendations. She stated that compliance with MUKs were internal guidelines and compliance with these guidelines was mandatory only for State control bodies and those bodies within Kazakhstan conducting State sanitary-epidemiological control and other types of State control. She noted that GOST and MUK documents were being updated on a regular basis taking into account current amendments in legislation and the technical base (capabilities for testing). She confirmed that there were no binding requirements on how often the producing establishment had to test for residues or microbiological levels in its product or how often official checks for residues and microbiological checks should be carried out. She noted that an inspector could ask for documents regarding such testing for informational purposes to establish that there was a plan of control of these issues. Some Members expressed concerns that an establishment could be considered as non-compliant on the basis of a non-binding guideline and asked whether Kazakhstan would implement the Codex Guidelines "For the Design and Implementation of

National Regulatory Food Safety Assurance Programme Associated with the use of Veterinary Drugs in Food Producing Animals" CAC/GL/71-2009, which recognised the monitoring done at a national level, and by a food producing establishment. The representative of Kazakhstan confirmed that it would implement these Codex Guidelines as of the date of its accession to the WTO. The Working Party took note of this commitment.

36. Some Members also noted that the technical regulations and secondary normative acts containing limitative standards did not take into account the corresponding standards, recommendations and guidelines of international organizations or the methodology recommended by such organizations to set such standards. In response, the representative of Kazakhstan stated that these technical regulations and secondary normative acts related to sanitary and veterinary issues would be based on the corresponding standards, recommendations and guidelines of international organizations.

(d) Trade in Goods Subject to Veterinary Control

37. The representative of Kazakhstan stated that, as noted above, the Commission had issued several decisions which provided the legal framework for protection of animal and human health. CU Commission Decision No. 317 of 18 June 2010 "On the Application of Veterinary-Sanitary Measures in the Customs Union" (as last amended by EEC Collegium Decision No. **18** of **11 February 2014**) established the legal basis for veterinary measures in the **EAEU** and entered into force on 1 July 2010. CU Commission Decision No. 317 established a list of goods that could be subject to veterinary control, and adopted provisions on: (i) the common procedure for carrying out of veterinary inspection at the customs border of the **EAEU and in the customs territory of the EAEU**; (ii) the common procedure for carrying out of joint inspections of facilities and sampling of goods (products) subject to veterinary control (surveillance), **which was replaced by the CU Commission Decision No. 834 of 18 October 2011**; (iii) the common veterinary (veterinary and sanitary) requirements for goods subject to veterinary control (surveillance); (iv) the common forms of veterinary certificates (for movement within the **EAEU**); and (v) the common List of goods subject to veterinary control (surveillance). The representative of Kazakhstan noted that CU Commission Decision No. 834 of 18 October 2011 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" as amended by EEC Council Decision [xxx] of [xxxx] had approved a new procedure for conduct of inspections and repealed the previous regulation on inspections adopted by the CU Commission Decision No. 317. The Common Sanitary-Epidemiological and Hygiene Requirements to Goods Subject to Sanitary-Epidemiological Control (supervision) as contained in CU Commission Decision No. 299 of 28 May 2010 "On the Application of Sanitary Measures in the Customs Union" (as last amended by EEC Collegium Decision No. 208 of 6 November 2012) established maximum residue levels for controlled goods.

38. The representative of Kazakhstan further clarified that as stated in the Article "General Provisions" of the **EAEU** Common Veterinary Requirements **"**the goods subject to veterinary control imported to the customs territory of the Customs Union were subject to regulatory

measures indicated in the Annex to these Requirements". As for goods moving from the territory of one **EAEU member State** to the territory of another **EAEU member State**, in accordance with the Article "General Provisions" they: 1) had to be accompanied by a veterinary certificate of a **EAEU** common form issued by the competent authority of the exporting **EAEU member State**; 2) had to be sourced from the establishments included into the Register of Establishments and Persons that Produce, Process and (or) Store Goods Moving from the Territory of one **EAEU member State** to the Territory of another **EAEU member State**; and 3) did not require permits issued by the competent authorities of the **EAEU member States**.

39. The following basic national regulatory legal acts constituted the legal framework to protect human and animal life and health are: the Law "On Veterinary" of 20 July 2002 (as last amended **on 5 July 2014**), Law "On Food Safety" of 27 July 2007 **(as last amended on 13 January 2014)**, as well as subordinate legal acts in the sphere of veterinary, had been approved for the purpose of implementation of these Laws: Government Resolution No. 407 of 28 April 2003, which approved the following: (1) Regulation on the State Veterinary and Sanitary Control **and Surveillance**; (2) Rules for Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health, or Mandatory Decontamination (Disinfection) and Processing Without Withdrawal Thereof; (3) Rules and Conditions of Compensation to Legal and Natural Persons of the Value of Removed and Destroyed Infected Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health; (4) List of Highly Contagious Animal Diseases, when Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health are to be Held; (5) List of Highly Contagious Animal Diseases, prevention, diagnosis and eradication of which are implemented through the budget; (6) Rules of State Veterinary and Sanitary Control During Movement of Objects Across the State Border of the Republic of Kazakhstan; (7) Rules of Organization of Veterinary Control Posts at the State Border and Customs Checkpoints; Government Resolution No. 1754 "On Approval of Organization of Slaughtering of Agricultural Animals Intended for Subsequent Sale" of 4 November 2009; Government Resolution No. 2331 "On Approval of Identification of Agricultural Animals" of 31 December 2009; Government Resolution No. 132 "On Approval of Rules of Issuance of Permits for Exportation, Importation and Transit of Objects with Regard to Evaluation of Epizootic Situation in the Territory" of 19 January 2012; Government Resolution No. 149 "On Approval of Rules of Transportation (Movement) of Objects on the Territory of the Republic of Kazakhstan" of 21 January 2012; Government Resolution No. **1230** "On Approval of Rules for Issuing Veterinary Documents for Objects Subject to Veterinary-Sanitary Control and Surveillance" of 22 September 2012.

- (i) Veterinary Certificates

40. Members requested information on **EAEU** requirements related to the development and implementation of veterinary certificates. Members sought to ensure that such certificates would be consistent with international standards, recommendations, and guidelines. Members also requested information on the continued validity of current bilateral certificates agreed with

Kazakhstan. In their view, these bilateral certificates should remain valid until a replacement was agreed with the **EAEU member States**.

41. With respect to veterinary certificates, the representative of Kazakhstan stated that **42 EAEU** common forms of veterinary certificates for import into the **EAEU** territory from any third country had been adopted by CU Commission Decision No. 607 of 7 April 2011, for each of the categories of goods subject to veterinary control as established in CU Commission Decision No. 317. These certificates were subsequently updated pursuant to CU Commission Decision **No. 832 of 18 October 2011, CU Commission Decision** No. 892 of 9 December 2011, EEC Collegium Decisions No. 262 of 4 December 2012, No. 308 of 25 December 2012, **EEC Collegium Decision No. 193 of 10 September 2013, EEC Collegium Decision No. 245 of 29 October 2013 and EEC Collegium Decision No. 19 of 11 February 2014**. She confirmed that in accordance with CU Commission Decision No. 726 of 15 July 2011 "On Veterinary Measures", veterinary certificates between exporting countries and Kazakhstan finalized prior to 1 July 2010 would be valid for import into the territory of the **EAEU** at least until 1 January 2013. Furthermore, the Decision provided that the competent authorities of the **EAEU member States** could negotiate and agree to veterinary certificates with requirements that differed from the **EAEU** common form and specific **EAEU Common Requirements**, if an exporting country made a substantiated request prior to 1 January 2013 to negotiate such veterinary export certificate. The **d**ecision also provided that bilateral veterinary export certificates, in case an authorised body of an **EAEU member State** received request to negotiate a veterinary certificate before 1 January 2013, initialled by one of the **EAEU member States** before 1 July 2010, as well as any subsequent amendments to such certificates agreed with the authorised body of such **EAEU member State**, would remain valid for exports from the relevant country into the customs territory of the **EAEU** until an export certificate was agreed with an **EAEU member State** based on the agreed positions of the other **EAEU member States**. Bilateral veterinary export certificates initialled by one of the **EAEU member States** between 1 July 2010 and 1 December 2010 would remain valid for import and circulation of relevant goods, only in the territory of the **EAEU member State** that initialled the certificate, in case an authorised body of exporting country submitted its request to an authorised body of an **EAEU member State** before 1 January 2013 until a bilateral veterinary export certificate was agreed with an **EAEU member State** based on the agreed positions of the other **EAEU member States**. While a bilateral veterinary export certificate could contain requirements that differed from the **EAEU** Common Form and Common Requirements, such certificates had to ensure the appropriate level of protection as determined by the **EAEU member States**. These new certificates were also required to include terms, including provisions on the relevant product, that were no less favourable than those in an international treaty that was concluded prior to 1 July 2010 between an **EAEU member State** and the third country. The Working Party took note of these commitments.

42. Asked to provide more information on the use of veterinary certificates, she said that the **EAEU** legal framework allowed for negotiating veterinary certificates differing from **42 EAEU** common forms of veterinary certificates and specific **EAEU** Common Requirements with a

competent body of exporting country. If a third country sought to export to **an EAEU member State** a commodity for which veterinary certification was required according to the **EAEU** Common List of Goods subject to veterinary control and **the EAEU** common veterinary requirements, but for which no **EAEU** Common Form of certificate and no **EAEU** Common Requirements existed, a bilateral certificate with the interested country could be developed based on a coordinated position of the **EAEU member States**, and such a bilateral certificate would be based on relevant international standards, guidelines and recommendations as provided for in CU Commission Decision No. 721 of 22 June 2011 "On Application of International Standards, Guidelines and Recommendations". If, according to the **EAEU** Common List of Goods **S**ubject to **V**eterinary **C**ontrol and **EAEU C**ommon **V**eterinary **R**equirements, no veterinary certification was required for a commodity, or if the commodity was not included in the said **EAEU** Common List, Kazakhstan would not require a veterinary certificate. The Representative of Kazakhstan also added that the **EAEU member State** that received a request from a third country to initiate the negotiation on veterinary certificates, or the EEC, if the third country had sent its request to it, was responsible for coordinating the certificate negotiations and **EAEU member States'** negotiating positions, as well as preparation and provision of feedback on third countries' proposals and requests regarding veterinary certificates.

43. A Member requested information on the latest amendments to the common veterinary requirements, noting that certain provisions of these requirements did not appear to be in accordance with OIE recommendations. This Member asked whether the intent of these amendments was to align these requirements with the OIE.

44. Some Members expressed concern that the Commission had adopted 40 common forms of veterinary certificates and 38 chapters of common veterinary requirements that did not conform to international standards, recommendations and guidelines, in particular OIE standards, recommendations and requirements. These Members also raised concerns that contrary to the requirements of the WTO SPS Agreement, interested parties, including Members had not been accorded an opportunity to provide comments on these measures before they were adopted. The representative of Kazakhstan responded that paragraph 16 of the Regulation on Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures, approved by the EEC Collegium Decision No. 161 of 18 September 2012, which replaced the Regulation on Coordination Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures approved by CU Commission Decision No. 319 as last amended by **EEC Collegium** Decision No. **77** of **9** April **2013**, now provided **an EAEU** process for receiving comments from the public on proposed SPS measures. She further clarified that paragraphs 2-4 of CU Commission Decision No. 625 that provided a process for reviewing measures for their conformity with international standards and amending those measures that were found not to be in conformity with international standards remained applicable.

45. [The representative of Kazakhstan confirmed that amendments of the common veterinary requirements and to the common forms of certificates were being prepared in parallel so as to

ensure compatibility with international standards, recommendations and guidelines in particular OIE standards. She confirmed that the amendments to the common veterinary requirements and to the common forms of certificates would enter into force simultaneously no later than the date of the accession of [the first **EAEU member States**] [Kazakhstan] to the WTO. The Working Party took note of these commitments.]

46. Some Members noted that Kazakhstan had drafted proposed amendments to a few of the **EAEU C**ommon **V**eterinary **R**equirements. These Members expressed concerns that these proposed amendments were extremely limited, failed to take into account Members' comments, were not based on scientific principles, could result in arbitrary or unjustifiable discrimination, and, most importantly, failed to bring the **EAEU** common veterinary requirements into conformity with international standards, recommendations and guidelines, e.g., by requiring conditions for animal diseases which were not listed in the OIE Code or by requiring freedom of the territory of origin when less trade restrictive conditions for trade were provided in the OIE Code for the concerned commodity. Members noted Kazakhstan's commitments in paragraph [45] regarding the **EAEU** common veterinary requirements and common forms and expressed concerns that Kazakhstan **had** not adopt**ed** all of the necessary amendments to achieve compatibility with international standards, guidelines and recommendations, in particular OIE standards, by the date of the accession of the first **EAEU member State** to the WTO or that these amendments would not enter into force as provided in paragraph [45]. These Members urged Kazakhstan to engage in serious efforts, including through consultations with WTO Members, with a view to ensure the timely implementation of the commitments in paragraph [45].

47. **The representative of Kazakhstan explained that h**armonization of the **EAEU** Common Veterinary Requirements was carried out in 2012 as part of Russia's accession to the WTO. In particular, the timeframes of the absence of animal diseases by type of controlled goods were reduced taking into account the regionalization principle. As part of the harmonization process, amendments were introduced to more than 20 chapters of the **EAEU** Common Veterinary Requirements **as a** result of consultations with some of the WTO Members. In addition, with the aim of further harmonization with OIE recommendations, amendments were introduced to some of the chapters of the Common Veterinary Requirements. **The representative further explained that harmonization of the EAEU veterinary requirements was ongoing process. She asserted that** the **r**equirements for animal diseases established in the **EAEU** Common Veterinary Requirements were consistent with the OIE recommendations. **She noted that** in accordance with Article 5.1.1 of the OIE Terrestrial Animal Health Code (hereinafter - the OIE Code), there were different options (recommendations) for imports of goods depending on the status of animal health in the country. **Moreover, the OIE** Code offered various options because of differences between countries in their animal health situations. As provided in the OIE Code: "The animal health situation in the exporting country, in the transit country/countries and in the importing country should be considered before determining the requirements for trade. To maximise harmonisation of the sanitary aspects of international trade, Veterinary Authorities of Member Countries should base their import requirements on the standards of the OIE." **She stated that**

EAEU member States had chosen one of the options provided by the OIE Code with regard to certain diseases taking into account level of protection that **EAEU** countries deemed to be appropriate. **The Representative of Kazakhstan further clarified that** the CU **Decision No. 726 allowed** for negotiating bilateral veterinary certificates between the **EAEU** and the exporting countries **that** could contain requirements different from the Common Veterinary Requirements **in order to reflect the different animal health status in the exporting countries with the aim to promote trade**.

48. Some Members noted that they had begun to negotiate specific certificates with the **EAEU member States** consistent with CU Commission Decision No. 726. Members stated that the **EAEU member States** continued to request attestations that went beyond the OIE recommendations without providing scientific justification and that the **EAEU member States** seemed reluctant to negotiate attestations that differed from the **EAEU** common requirements. Members also noted that the process for negotiating the certificates was time intensive and that it was difficult to ensure that the representatives from Kazakhstan participated in negotiations and there was consistency in the positions taken by the **EAEU member States** participating in each negotiating session. Furthermore, these Members requested information on the basis for an **EAEU member State**, which did not participate in negotiations of specific certificates, to oppose the conclusion and adoption of the certificates when the certificate contained provisions aligned with the international standards. Members noted ongoing concerns with the lack of efficiency in negotiating specific certificates. The representative of Kazakhstan replied that during negotiations the **EAEU member States** would propose attestations that followed OIE recommendations except when justified by risk assessment as provided for by the WTO SPS Agreement. The representative noted that Kazakhstan participated in negotiations as time and resources permitted, and had recently participated in negotiations and initialled a number of bilateral veterinary certificates.

49. The representative of Kazakhstan confirmed that, if an exporting Member believed that the SPS requirements of the **EAEU** or Kazakhstan resulted in a higher level of protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, Kazakhstan was prepared to consult with the exporting Member on such SPS requirements and, if necessary, would, as a result of such consultations, modify requirements included in the relevant certificate to bring them into compliance with international standards, guidelines, or recommendations consistent with the WTO SPS Agreement. The Working Party took note of this commitment.

50. A Member of the Working Party expressed concern that bovine spongiform encephalopathy (BSE) requirements set-out in existing bilateral certificates as well as in the **EAEU** common veterinary certificate for live cattle, did not conform to OIE standards, since they respectively foresaw testing of animals for BSE and required the absence of a genetic link with animals affected by BSE. The representative of Kazakhstan clarified that in respect to BSE, as of the date of accession of Kazakhstan to the WTO, bilateral certificates as well as the **EAEU** common certificates

would, as provided for in the WTO Agreement, be in conformity with OIE standards. The Working Party took note of this commitment.

51. [Some Members stated that a veterinary certificate should not require certification of provisions that were not mandatory requirements under **EAEU** acts or in the absence of **EAEU** mandatory requirements, under international standards, recommendations, and guidelines, e.g., to certify for a disease which was not the object of an **EAEU** act or was not subject to the same level of surveillance within the **EAEU** or Kazakhstan's territory as required in the certificate. If Kazakhstan or the **EAEU** sought to have stricter animal health requirements than those set-out in the OIE, Kazakhstan or the **EAEU** must demonstrate that, based on risk assessment, as well as active and passive surveillance in Kazakhstan or the **EAEU** territory for animal diseases that could be present on the territory of Kazakhstan or the **EAEU**, the animal health status of Kazakhstan or the **EAEU** for the disease concerned was such that it justified such stricter requirements. The representative of Kazakhstan confirmed that veterinary certificates would not include provisions for diseases that were not transmitted by/relevant to the concerned product, and would not require certification of provisions that were not justified based on mandatory requirements applicable and surveillance carried out within the territory of Kazakhstan [or the [whole] **EAEU**]. [In accordance with the OIE code, in cases where at least one, but not all, **EAEU member States** had in place in the relevant territory either a control or eradication programme for a disease, or surveillance programme demonstrating that the disease was not present, veterinary attestations for that disease would only be required for goods destined to the **EAEU member State(s)** having the relevant programme in place.] [Veterinary certificates for goods destined to Kazakhstan could contain veterinary attestations for the diseases, for which Kazakhstan, but not other **EAEU member States**, had in place in the relevant territory either a control or eradication programme, or surveillance programme demonstrating that the disease was not present]. The Working Party took note of this commitment.]

52. Some Members expressed concern as regards the overlap of measures required by Kazakhstan to confirm the conformity of goods with **EAEU** and national food safety measures: through veterinary export certificates, declarations of conformity, certificates of conformity, listing of establishments authorized to export to the **EAEU**, import permits, and State Registration. These Members questioned the utility of such repeated, multiple and overlapping requirements to verify conformity with requirements. In their view, it was burdensome, unnecessary and trade restrictive to maintain together a declaration of conformity or other forms of conformity assessment and export certificate or additional requirements. Members requested that Kazakhstan **eliminate** this redundancy.

53. [The representative of Kazakhstan explained that Committee of Veterinary Control and Supervision exercised authority in relation to veterinary and sanitary issues when goods were imported into Kazakhstan so as to avoid duplication of efforts. She noted that veterinary certificates included both veterinary and sanitary requirements and that only one veterinary-sanitary document was required to cross the border. She further explained that State

Registration of controlled goods applied both to domestically produced and imported goods and applied only to a limited number of products. With regard to goods for which the **EAEU** currently required both a veterinary certificate and a declaration of conformity, she confirmed that the **EAEU member States**, pursuant to **EAEU** technical regulations, currently under development, would require only one document, as specified in each technical regulation, to confirm the conformity of products with **EAEU** requirements. **[**For example, the Technical Regulation on Food Safety, adopted by CU Commission Decision No. 880 of 9 December 2011 provided that only veterinary certificates would be required for non-processed animal products, while only a declaration of conformity or State Registration certificate would be required for products, that have undergone a treatment which based on scientific evidence, eliminated contamination.] [For example, Technical regulation on Milk and Dairy Products adopted by EEC Council Decision No.67 and Technical Regulation on Meat and Meat Products adopted by EEC Council Decision No.68 of 9 October 2013 provided that only veterinary certificates would be required for non-processed and processed milk and meat products.] The Working Party took note of this commitment.]

54. Several Members requested that Kazakhstan confirm that the **EAEU member States** accepted replacement veterinary certificates in accordance with the OIE Code, Article 5.2.3, point 9), and asked which legal basis provided for this.

55. The Representative of Kazakhstan replied that Kazakhstan had initiated amendments into CU Decision No. 317 in order to include provision on acceptance of replacement veterinary certificates in accordance with the OIE Code, Article 5.2.3, point 9). These amendments were considered at the meeting of the working group on veterinary and sanitary measures on 4-6 December 2013 and had undergone public consultations that ended on 10 March 2014. Currently, comments received during public consultation were being consolidated for review within the **EAEU**.

- (ii) Establishment Approval, Register and Inspections

56. The representative of Kazakhstan explained that according to CU Commission Decision No. 317, many of the goods included in the list of goods subject to veterinary control were subject to three requirements: (i) the exporting establishment had to be included in the Register of Entities and Persons Producing, Processing and/or Storing of Goods Subject to Veterinary Control Imported into the Customs Territory of the CU (hereinafter – the Register); (ii) the good had to be accompanied by a veterinary certificate; and (iii) an import permit had to be issued for importation of goods from an establishment in the Register. However, the representative noted that pursuant to CU Commission Decision No. 830 of 18 October 2011 and EEC Collegium Decision No. 294 of 10 December 2013, the **EAEU** had agreed to remove certain veterinary control measures for specific goods in order to minimize the overlapping of control mechanisms. In addition, CU Commission Decision No. 831 of 18 October 2011 removed some goods from veterinary control completely.]

57. The representative of Kazakhstan emphasised that according **to EEC Collegium** Decision No. **294 of 10 December 2013**, producers of certain imported goods were exempted from the

registry requirements, **for instance,** such as producers of live animals, except for live fish for direct consumption as food, feed grain, natural honey, oil-seed flour for feed, animal fat and oil, unprocessed grain straw, extracts and juices from meat, pasta stuffed with fish and invertebrates and processed meat. The Register was published on the web-page indicated in paragraph [66].

58. A Member requested the scientific basis for maintaining some specific products in the list of goods subject to veterinary control. Specifically, the Member requested information on the inclusion of products of plant origin. In addition, the Member requested information on the requirement for including the names of establishments exporting processed dairy products in the Register when destined to Kazakhstan. This Member requested that Kazakhstan eliminate any requirements that did not have a scientific justification and a risk assessment.

59. The representative of Kazakhstan replied that Kazakhstan excluded products of plant origin from the list of goods subject to veterinary control in accordance with EEC Council Decision No. 33 of 24 May 2013**,** which would become effective on the date of Kazakhstan's accession to the WTO. She further noted that in accordance with the Common Veterinary Requirements, for several products of animal origin with low risk, an import permit and veterinary certificate was required to indicate the name and (or) number of the establishment assigned by the official veterinary authority of the exporting country. This requirement was consistent the OIE Code.

60. In response to a request from a Member for further information on the requirements and procedures for an establishment to be included in the list of establishments authorised to export a product to Kazakhstan and the **EAEU**, the representative of Kazakhstan explained that, prior to 1 July 2010, Kazakhstan did not maintain a registry requirement for establishments of exporting countries. The representative of Kazakhstan explained that, as of 1 July 2010, imports of some of the products subject to veterinary control, as established in CU Commission Decision No. 317, were required to come from establishments approved by the **EAEU member States** and included in the Register.

61. In response to some Members concerns related to the maintained requirement to provide lists for live animals and certain products' establishments whereas the **EAEU** framework had eliminated this form of veterinary controls, the representative of Kazakhstan explained that the **EEC Collegium** Decision No. **294** of **10 December 2013** amended **the** CU Commission Decision No. 317 to specify, for each type of good included in the list of goods subject to veterinary control, which veterinary measures (import permits, veterinary certificates and/or listing of establishments) applied to that particular good**s**. In some cases, the form of veterinary control had been modified or eliminated. For example, for some products the requirement for veterinary certificates and/or import permits had been eliminated. Similarly, the requirement for an establishment to be included in a Register had been eliminated or amended to require only the provision of the name and/or number of the final establishment dealing with the goods prior to export to the territory of the **EAEU**, which was included in the import permit and/or veterinary certificate. [Trade would then be possible for these commodities without listing upon favourable audit results].

62. Some Members expressed concerns at the significant trade barriers imposed by this interpretation of CU Commission Decisions No. 830 and No. 834, whereby **the EAEU member States** attempted to maintain the requirement for establishment lists arbitrarily for some products in contradiction with the provisions in CU Commission Decision No. 830. Specifically, some Members were concerned that in the implementation of these decisions the **EAEU member States** were requesting a successful audit as a precondition for removing the listing requirement for certain products as established in Decision No. 830 and Decision No. [xx]. Further those Members were highly concerned by the refusal of **EAEU member States** to add any new establishments to the list of establishments approved to export to the **EAEU**.

63. [The representative of Kazakhstan replied that according to Article 5 of the Decision No. 834 an audit of foreign official control systems was the basic principle used by **the EAEU member States** to ensure safety of products subject to veterinary control. In her view, audit of foreign official systems of control was based on international standards and was in line with international practice. She noted that many developed countries applied audit (approval of exporting countries) as the main condition for importing products of animal origin to their territories. She further explained that products of animal origin from countries that had not been audited could also be imported to the **EAEU** based on inclusion into the Register. If the results of audit were unfavourable or audit was not conducted, listing of establishments from third countries, when required, would still be possible with the use of the other two options: (i) joint inspection of establishments by the **EAEU member States**; and (ii) guarantees from competent authorities of third countries. At the same time, products, for which listing of establishments was not required in accordance with Decision No. **294**, could be imported to the **EAEU** only after favourable audit results. Taking into account that audit was a complex and lengthy process, in order not to stop trade in these products, the **EAEU member States** had agreed to apply provisional scheme that would be applied until all **EAEU** trade partners undergo audit. Under these scheme products, for which listing was not required under Decision No. 294, before audit was carried out, could be imported to the **EAEU** based on the listing of establishments. Listing of establishments could be done based on the guarantee of third countries' competent authorities or joint inspections. The listing of establishments for such products would be carried out until audit was completed and the official system of a respective third country was recognised as equivalent. She further added that to date Kazakhstan had not refused to add any new establishments to the list of establishments approved to export to the **EAEU**.]

64. The representative of Kazakhstan confirmed that pursuant to the EEC Council Decision No. 33, products of plant origin were excluded from the List of Goods subject to Veterinary Control, and, pursuant to EEC Collegium Decision No. **317, as amended by the EEC Collegium Decision No. 294 of 10 December 2013,** the requirement of inclusion of third country producers exporting dairy products to Kazakhstan into the Register was replaced by the requirement to indicate the number and name of the producer in the import permit and veterinary certificate.

65. With regard to the list of goods as set-out in Table [xx], the representative of Kazakhstan confirmed that categories of goods would be added to the list of goods subject to veterinary control or the form of veterinary control applied to categories of goods on the list would be modified only if such action was in compliance with the provisions of the WTO SPS Agreement. The Working Party took note of this commitment.

66. The representative of Kazakhstan further explained that since 1 July 2010 and before completing work on creating a common web-interface of the Commission's website, the three national parts of the List of establishments from which imports were authorised were valid for imports into the entire **EAEU** territory (unless specified otherwise for specific establishments on the lists). Currently the references to these lists were available within the following website: **http://www.eurasiancommission.org/ru/act/texnreg/depsanmer/vetsanmeri/Pages/Reestrorg.aspx**. Kazakhstan's national part of the List could be found at the following web-link: **http://mgov.kz/napravleniya-razvitiya/veterinarnaya-bezopasnost/** under section Veterinary and Sanitary Measures of the Customs Union. The addition of an establishment from any country to the national part of the List could only occur after all three **EAEU member States** agreed on the inclusion of the establishment. As a result of this decision, products from such an establishment could freely circulate within the territory of the **EAEU**, unless specifically provided otherwise in this decision. The representative explained that the **EAEU member States** intended to develop a common web-interface of the **EAEU** Register of establishments and a common information system so as to have a unique list of establishments that would consolidate their national lists, but exact timing for the development of this database could not be specified.

67. Members noted that Kazakhstan had never maintained a listing requirement prior to the establishment of the **EAEU** and that many of these requirements were not based on scientific evidence or proportionate to the risk and would represent an unjustified burden on trade, and were in their view, inconsistent with the WTO SPS Agreement. In response, the representative of Kazakhstan explained that, in her view, the listing requirement itself could not be a burden on trade. The burden on trade could result from the application of the wrong mechanism for including an establishment on the Register, for example, if the required actions that had to be done by the competent authority of an exporting country and/or establishment were not based on a risk analysis or were more trade restrictive than necessary. CU Commission Decision No. 834, allowed the use of different mechanisms for listing establishments that provided the possibility of minimizing the application of a more burdensome process than necessary for including an enterprise on the list by basing actions on the results of a risk analysis. The representative of Kazakhstan also explained that the requirement to be in the Common Register of Establishments approved to export particular controlled products was a means to ensure compliance with **EAEU** veterinary requirements.

68. In response to a question from a Member, the representative of Kazakhstan explained that in accordance with a transitional period provided under CU Commission Decision No. 317, trade could continue from establishments not on a "list" in the Register - when there was no requirement

for such a "list" prior to 1 July 2010. Such trade could take place on the basis of an import permit. She further explained that according to point 11.3 of the CU Regulation "On Veterinary Checks at the CU Border and on the CU Territory" (CU Commission Decision No. 317 as amended by CU Commission Decision No. 342 and CU Commission Decision No. 724), a transitional period for listing establishments had been established, for the following products: animals; genetic material; apicultural products; raw material of animal origin (skins, fur, feather, etc.); feed additives of animal origin; feed of plant origin, gelatin and composite products etc., to permit trade to continue until common or unified lists were established. In reply to the request for clarification on the transitional period and the question on the deadline for the transitional period for new establishments, the representative of Kazakhstan said the transitional period was provided for continuation of trade with third countries on these goods until inclusion of the establishments producing such goods into the Register. The CU Commission Decision No. 830, as amended by EEC Collegium Decision No. 294 of 10 December 2013, removed the registry requirements for certain products, including live animals, except for live fish for direct consumption as food; genetic material; apicultural products; raw material of animal origin (skins, fur, feather, etc.); feed additives of animal origin; feed of plant origin, composite products which were referenced in paragraph 11.3 of the CU Regulation "On Veterinary Checks at the CU Border and on the CU Territory". Therefore, the transitional period for these products had lapsed as of 22 August 2012, i.e. the date of entry into force of CU Commission Decision No. 830. For gelatin, the transitional period provided in paragraph 11.3 of CU regulation on Veterinary Checks at the CU border and the CU territory was still applicable, pending the entry into force of the Table No. 2 of the EEC Collegium Decision No. 294 of 10 December 2013.

69. The representative of Kazakhstan further explained that since 1 July 2010, in case listing of establishment was part of the applicable veterinary requirements, establishments could be added to the list of establishments authorised to export to the **EAEU** (the Register) following the system audit, or following an on-site joint inspection conducted by the three **EAEU member States** or the delivery of guarantees as regards conformity with the **EAEU** requirements by the exporting country, if the three **EAEU member States** commonly agreed to rely on such guarantees. She explained that if a third country had never exported products of animal origin to any of the **EAEU member States** before, and wanted to export to the **EAEU** for the first time, exporting establishments proposed by this third country would have to be inspected by the **EAEU member States** before being added to the Register, in order to confirm the reliability of the veterinary control system of this country.

70. Pursuant to paragraph 44 of the Regulation, in case a competent body of a third country was authorised by **EAEU member States** to present guarantees, the competent body of third country had to submit its list of exporting establishments. The authorised body of the **EAEU member State** reviewed the presented list of establishments within one month and took a decision on inclusion of the establishments into the Register. [The representative of Kazakhstan further informed Members that EEC Council Decision No. [XXX] of [XX] amended CU Commission Decision No. 834 and notably clarified procedures for accepting guarantees from competent authorities of

third countries. In particular, the draft amendments clarified that the competent authority of a third country could send its request to accept its guarantee on compliance of the goods subject to veterinary control produced by specific establishment (establishments), including the information in accordance with certain sub-paragraphs of paragraph 43-1 that the competent authority of the third country considered to be necessary to assess the request and its list of establishments, to the authorised body of any **EAEU member State**. The authorised body of the **EAEU member State** that received the request was responsible for coordinating the process of consideration of the request for providing the guarantee and for agreeing its decision with the authorised bodies of the other **EAEU member States**. The authorised body of the member State that received the request evaluated the request based on the criteria provided in the paragraph 43-1 of Decision No. 834 within reasonable time period, but no longer than two months. Upon favourable evaluation the competent authority of the **EAEU member State** prepared the decision and sent it to the authorised bodies of other **EAEU member States** for approval. In accordance with the draft amendments timeframe for the approval by the **EAEU member States** had not to exceed 10 working days. In the absence of the written reply during the established time-frame, the decision was deemed to be approved. In case of disagreement with the decision, the **EAEU member States** had to send their reply indicating the reasons for not approving the decision to the **EAEU member State** that received the request within the established time-frame. In case the decision was approved by the **EAEU member States**, the authorised body of the member State that received the request had to send written notification to the competent authority of the third country on accepting the guarantee and include the establishments into the Register within 10 working days since the approval of decision on accepting the guarantee. In case of the negative decision on accepting the guarantee the authorised body of the **member State** that received the request sent notification to the competent authority of the third country indicating the reasons for refusal**.** The reasons for refusal had to be based on the criteria included in paragraph 43-1 and had to explicitly specify which element was not met in those criteria. The competent authority of the third country whose guarantee had been accepted in a prescribed manner could further send to the authorised body of an **EAEU member State** a request on amending the Register, including the inclusion of new establishment. The authorised body of the **member State** evaluated the provided list of establishments within 10 working days. Upon a favourable decision, the authorised body of the **member State** included the establishments into the Register within 10 working days and published them on the website. In case of refusal to include the establishments into the Register the authorised body of the **member State** notified the competent authority of the third country indicating the reasons for refusal.]

71. Some Members asked on which basis **EAEU member States** could decide to rely on the guarantees of the exporting country for the inclusion into the Register. Another Member sought clarification as to the processes available to exporting countries to have facilities added to the Register. In this Member's view, it was unclear whether all options were available to all Members. A Member expressed concern that, in practice, the listing of new establishments was no longer accepted on the basis of written guarantees of the exporting country since the entry into force of the **EAEU**. In this Member's view, Kazakhstan and the other **EAEU member States** did not have

the resources to carry out inspections for any new establishment requesting to be listed by an exporting party and some establishments, even already exporting, could not be listed due to this lack of resources. In this Member's view, this represented an unjustified barrier to trade.

72. In response, the representative of Kazakhstan stated that the authorised bodies of the **EAEU member States** had to have confidence that the competent authorities of the exporting country would effectively ensure that exporting establishments in that country met **EAEU** requirements. She added that more detailed criteria on foreign guarantees were included in the CU Decision No. 834 on 18 October 2011. Decision No. 834 authorised and provided criteria for accepting guarantees from the competent authorities of third countries on the compliance of goods produced by an establishment located on its territory. These criteria were the following:

- Level of development of the competent authority of the third country;
- Level of justification of guarantees of the competent authority of the third country;
- Risk of entry into and spread of pathogens of infectious animal diseases in the third country, including those common to humans and animals;
- Epizootic situation in the third country;
- Results of monitoring tests of goods subject to veterinary control imported into the **EAEU** territory from the third country;
- Data from monitoring of relevant goods done by the competent authority of the third country;
- Compliance with **EAEU** requirements with regard to importing relevant goods into the territory of the **EAEU** from the third country; and
- Results of inspections by the competent authority of **an EAEU member State** or **member States** of establishments located on the territory of the third country.

That regulation was now in effect, including the provisions for accepting the guarantees of the competent authority of a third country and systems audits, which had entered into force on 22 August 2012. [Amendments to these criteria were being considered by the EEC.]

73. Regarding the availability of the three options (audit, guarantees, inspection) for all third countries for adding establishments into the register, when required, the representative of Kazakhstan confirmed that:

- a system's audit would be carried out at the request of the competent authority of the third country;
- in the event that a system's audit was not the preferred option, establishments could be added to the Register based on written guarantees from the competent authority of the third country if the criteria set forth in paragraph 43 of CU Decision No. 834 were met or establishments could be added to the register based on joint inspections by the **EAEU member States**.

74. Some Members expressed continuing concerns that **EAEU member States** could require inspection of each facility as a precondition for accepting guarantees for inclusion in the Register, even in the case where Kazakhstan or another **EAEU member State** had previously accepted guarantees from a Member's competent authority. In these Members' view, requiring inspections was contrary to the concept of accepting guarantees, which were based on confidence in the third country's competent authority. Members requested Kazakhstan to eliminate the requirement for inspection of a facility as a precondition for acceptance of a Member's guarantee for that facility. Besides, when requested, the inspection was often declined or would not be carried out in a reasonable time-frame.

75. The representative of Kazakhstan replied that according to the CU Commission Decision No. 834, there was no requirement to inspect each facility as a precondition for accepting guarantees for inclusion in the Register. At the same time, pursuant to paragraphs 44 and 86 of the Regulation on Joint Inspections, for the purposes of verification of the accepted guarantees, **EAEU member States** could subsequently inspect establishments, included into the Register under guarantees, by the method of random selection.

76. The representative of Kazakhstan explained that CU Commission Decision No. 834 had allowed for joint inspections by the three **EAEU member States** of establishments in third countries that sought to be permitted to export goods to the **EAEU** that are subject to veterinary control in the **EAEU**. Inspections must be carried out on the basis of a request by the competent authority of the exporting country. She further explained that it was possible that the representatives of the other **EAEU member States** could delegate their authority to another **EAEU member State** to carry out an inspection.

77. Some Members expressed concern about the process of approving an establishment by each of the **EAEU member States** as set-out in CU Commission Decision No. 834. For example, one Member of the **EAEU** could approve the addition of an establishment to the Registry, but the establishment would not be added to the Registry due to a lack of response from the other **EAEU member States**, hence resulting in excessive delays for obtaining a final inclusion in the Register. Further these Members expressed concern that approval, to be added to the Register, was by consensus and rejection was subjective and did not appear to be based on any criteria. These Members requested information on what would constitute a valid reason for refusal to be added to the Register, by **EAEU member States** and for other (non-auditing) **EAEU member States** to refuse to list an establishment or any time-frames for such a decision. In some Members' view, these decisions could be arbitrary and discriminate against Members where the same conditions prevailed. The requirement for consensus between the three **member States** on the different steps of the process was creating significant delays and in many cases making it impossible to add any new establishments to the Register, therefore denying market access to those establishments in compliance with the **EAEU** requirements as defined in CU Decision No. 834 that met the conditions to export. Meanwhile, **an EAEU member State** individually could decide to suspend exports from establishments present on the Register.

78. Members of the Working Party also expressed concerns that the implementation of CU Regulation "On Joint Inspections of Goods Subject to Veterinary Control" (CU Commission Decision No. 834) was not in line with Codex Guidelines for the design, operation, assessment and accreditation of food import and export inspection and certification systems (CAC/GL 26-1997), which recommended that: assessment activities by the importing country in the exporting country "should concentrate primarily on evaluating the effectiveness of the official inspection and certification systems rather than on specific commodities or establishments in order to determine the ability of the exporting country's competent authority(-ies) to have and maintain control and

deliver the required assurances to the importing country". Members requested that Kazakhstan conform to international standards, guidelines and recommendations.

79. [In response, the representative of Kazakhstan explained that, at the request of the competent authorities of the third country, the **EAEU member States** would conduct a systems audit to determine if the official system of supervision of that third country was capable of providing a level of protection at least equivalent to that provided by **EAEU** requirements. If this audit of the official system of supervision was successful, the **EAEU member States** would include establishments of the audited country on the Register in accordance with a list of establishments that the competent authority of the third country provided to the **EAEU member States**. If an audit of a third country's official system of supervision was not carried out or was not completed or if, as a result of such audit, the third country's official system of supervision was not recognised as being capable to provide a level of protection at least equivalent to that provided by the **EAEU** requirements, the **EAEU member States** could agree to include establishments of that country to the Register on the basis of joint inspections or guarantees provided by the competent authority of the third country if listing was required for such products. [If listing of establishments for a type of product was not required, the absence of the establishment on a list would not be a ground for rejection of the import.] The Working Party took note of these commitments.]

80. She further explained that CU Decision No. 834, in order to facilitate the inclusion of the establishments proposed by the competent authority into the Register, also established procedures, including time-frames for organising and taking decisions on systems audits, on-site visits, and including establishments in the Register in each of the cases described in paragraph [69] above. The **EAEU member State** that received the request for audits or for joint inspections of establishments notified the competent authorities of other **EAEU member States** of the request and invited them to participate. If an **EAEU member State** declined to participate or did not respond within the prescribed time, that **EAEU member State** authorised the participating **EAEU member State** or **member States** to act on its behalf and accepted the decision of the participating **EAEU member State** or **member States** on the relevant matter. In connection with a systems audit, the purpose of the visit was to ensure that, within the framework of the third country's regulatory system, related to production, processing, transporting and storage of the relevant goods, all of the country's laws, regulations and other requirements on inspection and certification, which the **EAEU member State(s)** recognised as capable to provide a level of protection, at least equivalent to that provided by **EAEU** requirements at the stage of analysis of documentation, were properly implemented. If the **EAEU** provided a third country the authority to list establishments located on its territory in the Registry, based on guarantees, the **EAEU member States** could conduct joint inspections of a representative percentage of establishments to check and confirm the operation of the third country's official system of supervision that was the basis for the guarantees. Establishments could also be included on the Register based on a joint inspection of the establishment.

81. The representative of Kazakhstan explained that with respect to request for authorization to provide guarantees, the **EAEU member State** that received such request from third country had to agree its decision with the other **EAEU member States**. Criteria for accepting guarantees were established in paragraph 43 of the Decision No. 834. Non-conformity with these criteria could serve as a basis for refusal to accept the guarantee from third country's competent authority. In general, the requirement to reach consensus between all **EAEU member States** with respect to approval of exporting establishments was necessary due to the absence of customs borders between territories of the **EAEU member States** and given the fact that the competence of establishment approval remained under the national competence. The representative of Kazakhstan further clarified that decision on suspension of exports from establishments was made based on obvious facts of inconsistencies with **EAEU** requirements that posed substantial risk to life and health of humans and/or animals. Thus, such decision could be made individually by an **EAEU member State**. Moreover, suspension of exports was a provisional measure and exports could be resumed as soon as the corrective measures were undertaken by the establishment. At the same time, the decision on inclusion of establishments under the guarantee required a more complex evaluation process and, thus, had to be agreed by all **EAEU member States**.

82. Some Members expressed concerns that the procedure for listing establishments based on guarantees was more cumbersome than that for suspending an establishment, since the former required the consent of all **EAEU member States** while the latter required a decision by only one **EAEU member State**. Members viewed such disparity of treatment as unjustified and contrary to the spirit of the WTO Agreements. Furthermore, Members expressed concerns regarding the lack of effectiveness and predictability of the mechanism of listing based on guarantees, the lack of a clear time-frame for being granted the authority to provide guarantees, the lack of justification of refusals to accept guarantees, and the absence of definition of the scope of these guarantees. Those Members also had concerns over statements by the Kazakh representatives as well as over draft **EAEU** amendments to CU Commission Decision No. 834. These amendments indicated that a suspension of trade from an establishment or for a type of product, while decided by one **EAEU member State**, was applied to the whole **EAEU** territory. These Members had experienced that suspensions and temporary restrictions taken for an establishment were not connected to an identified risk or not proportionate to the risk identified. They asked for confirmation that a suspension could not be decided before a risk assessment justifying the measure was carried out and that this risk assessment will be provided to a trade partner concerned upon request.

83. The representative of Kazakhstan explained that according to proposed amendments to the CU Commission Decision No. 834, the mechanism for inclusion of third country**'s** establishments into the Register on the basis of guarantees included deadlines and reasons for refusal to accept guarantees, as well as the timing and scope of such guarantees. She further noted that prior to the creation of the **EAEU** there was no register of third country establishments in Kazakhstan. In order not to restrict trade with other countries the vast majority of third country establishments was included into the Register on the basis of guarantees provided by competent authorities of third countries. Inclusion of establishments into the Register was carried out by **EAEU member**

States in coordinated manner because goods exported from these establishments could freely move within the **EAEU** and had access to the territory of all **EAEU member States**. She further stated that temporary suspensions of imports from an establishment were not imposed automatically. They could be imposed only at the request of the third country or in case of repeated identification of non-compliances, which was notified to the competent authority of the exporting country and which posed significant risk to human and animal life and health. Kazakhstan would provide a risk assessment justifying the measure, upon request from a concerned trade partner. In other instances, consistent measures, such as increased laboratory monitoring, warning, special requirements, such as application of additional or replacement measures, were applied in order not to stop exports from such establishments**.** Such decisions were made by an **EAEU member State** based on the repeated violations of the **EAEU** requirements and they could not contradict principles and spirit of the SPS Agreement. She further noted that taking into account comments from interested parties, the provision in accordance with which restriction of imports from an establishment imposed by one **EAEU member State** applied to the entire **EAEU** territory had been excluded from the draft amendment to Decision No. 834.

84. Some Members requested more information on how Kazakhstan and the **EAEU** intended to implement the three mechanisms for including establishments in the Register. The representative of Kazakhstan replied that currently, all guarantees, received from third countries by an authorized body of any **EAEU member State**, were subject to approval by the authorized bodies of other **EAEU member States**. In response to Members' further questions, the representative of Kazakhstan explained that CU Decision No. 834 provided that one basic principle for ensuring veterinary safety of controlled goods when inclusion in the Register was required, was conducting an audit of foreign official system of veterinary control (systems audit) as recommended by Codex Alimentarius. As such, CU Decision No. 834 provided three ways for a country to have establishments located on its territory included on the Register of establishments authorised to export as described in paragraph [80] above.

85. The representative of Kazakhstan explained that, in Chapter II, point 4.n of Decision No. 834, **EAEU** requirements were defined as follows: "international standards, guidelines and recommendations within the meaning of CU Commission Decision No. 721 of 22 June 2011 "On Application of International Standards, Recommendations and Guidelines", related to Veterinary and Sanitary Requirements for Goods, **EAEU** Technical Regulations for Goods, **EAEU** Common Veterinary Requirements, or the different requirements that **EAEU member States** have agreed with the third country in veterinary export certificates, as provided in CU Commission Decision No. 726 of 15 July 2011 "On Veterinary Measures", and mandatory national requirements for goods".

86. The representative of Kazakhstan confirmed that CU Decision No. 834 provided for removal of an establishment from the Registry (delisting) in only two cases: at the request of the relevant establishment, and at the request of the competent authority of the third country. Instead of delisting an establishment, the **EAEU** could, in line with international standards or based on risk

assessment, temporarily suspend imports from the establishment and/or subject imports from that establishment to intensified monitoring. Except in emergency situations, understood in the sense provided for in the OIE, a temporary suspension of imports from an establishment could be applied only:

- upon the request of the establishment or the competent authority of the third country; or
- based on repeated non-compliances with **EAEU** requirements either detected during on-site inspection and/or re-inspection of the establishment by the competent authority of **an EAEU member State**, or as a result of monitoring and enhanced laboratory testing of the establishment's goods, which have been notified to the competent authority of the third country, if such non-compliances represented a significant threat to human or animal life and health.

The Working Party took note of these commitments.

87. In response to a question from a Member, the representative of Kazakhstan confirmed that, currently, the Committee of Veterinary Control and Supervision was not entitled to delist an establishment on the basis of minor non-compliances with **EAEU** requirements or requirements included in the certificate not affecting the safety of the products, observed during on-site inspection or laboratory analysis at the border or based on issues which fall outside of the Committee's field of competence (e.g. controls on potable water).

88. The representative of Kazakhstan confirmed that, except in case of serious risks of animal or human health, its competent authority would not suspend imports from establishments based on the results of on-site inspection before it had given the exporting country the opportunity to propose corrective measures. As required under CU Decision No. 834, the preliminary report would be sent to the competent authority of the exporting country for comments before the report was finalised. She noted again that the **EAEU member States** had developed criteria and reasons for a decision to suspend imports from an establishment. Minor errors would not be valid grounds for suspending imports from an establishment and she reminded Members that there would be an administrative procedure for appealing such decisions as well as recourse to the courts. The Working Party took note of this commitment.

89. Regarding emergency situations, the representative of Kazakhstan confirmed that the decisions and procedures for the suspension of establishments would be in accordance with the WTO SPS Agreement. The Working Party took note of this commitment.

90. The representative of Kazakhstan further explained that in extraordinary cases, the Commission could take a decision to suspend a group of establishments or all establishments of a third country as the result of the detection of a serious systemic failure of the official system of control, as specified in CU Decision No. 834. The representative of Kazakhstan confirmed that, upon taking such a decision, the Commission would have to provide the Competent Authority (CA) of the third country with the technical information and scientific justification on the risk detected. The third country would be requested to take corrective measures within a specified timeframe for their adoption. Any suspension would not be implemented before the expiration of the specified timeframe. Once the corrective measures were taken, the CA of the third country would send a

report on the corrective measures to the Commission. The Commission would evaluate the report and it would decide if the corrective measures were effective and sufficient. The suspension, if implemented, would be lifted within five working days after the decision. In case corrective measures were not taken or were considered ineffective by the Commission, the decision on a temporary suspension of imports from a group of establishments or all establishments of a third country could be implemented. The representative of Kazakhstan confirmed that such temporary suspensions would be proportionate to the risk to human health or life and not more restrictive to trade than necessary, as provided in the WTO SPS Agreement. The Working Party took note of these commitments.

91. Members expressed concerns about a draft amendment to **EAEU** veterinary requirements that introduced a new listing obligation for establishments supplying raw materials to establishments that exported animal products to the **EAEU**. Members were concerned that this draft amendment mandated that raw materials used in the production of animal products for the **EAEU** must only come from establishments approved for export to the **EAEU**. Members noted that this could have far reaching ramifications and would be administratively difficult to implement and seemed to be lacking proportionality to any associated risk.

92. [In reply the representative of Kazakhstan noted that the draft amendment to **EAEU** veterinary requirements that introduced the requirement for third country establishments, which produced products containing components of animal origin for export to the **EAEU**, to use raw materials of animal origin produced by establishments approved to supply products to the **EAEU** territory, was suspended and sent for further elaboration and risk assessment. This requirement would not be considered further without risk assessment presented by one of the **EAEU member States** that would justify the measure.]

93. Members of the Working Party expressed concern that the draft inspection guidelines for meat, poultry, fish, and dairy were stricter than international standards, guidelines and recommendations, in particular they were overly prescriptive and in many cases would be difficult to respect in other cases than the **EAEU** context. Requiring establishments to meet these overly prescriptive structural and functional requirements would, in practice, preclude most non-**EAEU** establishments from passing inspection. Furthermore, Members highlighted that these draft guidelines did not take into account the possibility for exporting countries to conclude specific certificates with **EAEU member States**, as provided for in CU Commission Decision No. 726 of 15 July 2011, and thus to be subjected to specific requirements. Members asked how equivalence could be recognised when the specific standards set in these inspection guidelines could not be met.

94. [In reply, the representative of Kazakhstan explained that Kazakhstan and **EAEU member States** had developed Guidelines for Inspectors on Determining the Equivalency of Veterinary Measures Applied by Third Countries when Conducting Inspections of Establishments Subject to Veterinary Control and Audit of Official Systems of Control of Third Countries; Guidelines **for** Inspection of **Facilities** and Vessels **for Harvesting** and Processing Aquatic Animals, **Including**

Fish; Guidelines **for Inspecting** Dairy **Industry Establishments**; and Guidelines **for Inspecting Animal Slaughter Facilities** and Meat **Industry** Establishments, [adopted by EEC Collegium Decision No. [xxx], as Annex 2 and Annex 3 to CU Decision No. 834] (hereinafter referred to as guidelines), that included inspection guidelines for meat, poultry, fish, and dairy. She further explained that, prior to the adoption of the guidelines, the national legislation of an **EAEU member State** that received the request for inspection had been applied. The representative of Kazakhstan confirmed that the adopted guidelines had been developed in accordance with the Codex Alimentarius standards.]

95. She further explained that CU Decision No. 834 recognised the principle of equivalence. Specifically, inspectors were instructed to evaluate whether establishments were complying with relevant **EAEU** requirements or the relevant international standards, guidelines, and recommendations, and in such cases, the establishment would be considered in compliance with **EAEU** requirements based on the principle of equivalence. She further explained that if there were cases where **an EAEU** act or mandatory national requirement was more stringent than the international standard, the inspector would evaluate compliance with international standards, guidelines, and recommendations, unless a scientific justification for the more stringent measure, as provided for in the WTO SPS Agreement, had been presented to the competent authority of the third country. The competent authority could then propose an equivalent measure. If an establishment was included on the Register based on guarantees from the competent authority of the exporting country, inspectors were bound to check and evaluate whether the guarantees in the export certification applicable were met.

96. [The representative of Kazakhstan confirmed that as of the date of accession of [the first **EAEU member State**][Kazakhstan] to the WTO, specific guidelines on inspection that would reflect the principles of equivalence and reliance on international standards, guidelines and recommendations, as such principles were described in paragraph [95], would be adopted and applied to ensure the implementation of CU Decision No. 834 by **EAEU** inspectors, in accordance with the WTO SPS Agreement. Under these guidelines, referred to in paragraph [94], inspectors were instructed in particular to verify the compliance of establishments with relevant Codex Alimentarius recommended codes of practices such as CAC/RCP 1-1969, recommended International Code of Practice General Principles of Food Hygiene, the CAC/RCP 58-2005 Code of Hygienic Practice for Meat, the CAC/RCP 57-2004 Code of Hygienic Practice for Milk and Milk Products, the CAC/RCP 52-2003 Code of Practice for Fish and Fishery Products and other Relevant International Standards, Recommendations and Related Texts. The guidelines replaced previously existing national legislation of **an EAEU member State** concerning inspection of establishments, and would constitute the reference used by **EAEU** inspectors to assess compliance of exporting establishments with **EAEU** requirements. Moreover, inspectors would be provided information and training on the application of the principle of equivalence as provided in the WTO SPS Agreement, in the context of CU Decision No. 834 and the guidelines. The Working Party took note of these commitments.]

97. Some Members expressed concern that CU Decision No. 834 set-up a detailed and prescriptive system for auditing third-country systems for supervision of products subject to veterinary control, while it appeared that the requirements for **EAEU member States** and their respective establishments appeared to be less detailed and stringent in some respects. These Members asked whether and how it would be ensured, for example, that the frequency and requirements related to on-site visits as applied to third countries and their establishments and to **EAEU member States** and their establishments for purposes of determination and maintenance of equivalence, would be no less favourable to third countries and their establishments, and not discriminate against such countries or establishments.

98. In response, the representative of Kazakhstan stated that, in her view, CU Decision No. 834 and the procedures and requirements for the conduct of audits and inspections applied in respect of Members, their products or establishments were in compliance with the WTO rules and requirements.

99. Some Members requested more information on the timing of the audits once the audit request was sent to **an EAEU member State**. These Members expressed concerns that the implementation of the audit system seemed lengthy and burdensome.

100. The representative of Kazakhstan replied that to date, Kazakhstan had not received any requests from third countries to carry out an audit. On the basis of the requests sent to other **EAEU member States** a Schedule of Audits and Inspections for **first half of 2014** had been prepared by the **EAEU member States**. Publication of the Schedule currently was not provided in the **EAEU** legislation, however the **EAEU member States** were planning to amend the relevant legislation in order to publish the Schedule. She further added that timing of audits depended on the number of requests received from third countries and the availability of financial and human recourses for conducting such audits.

101. [The representative of Kazakhstan confirmed that, by the date that [the first **EAEU member State**] [Kazakhstan] became a Member of the WTO, CU Decision No. 834, as described in the Working Party Report, would be applied in compliance with the WTO SPS Agreement, including Article 2.3 thereof, and the GATT 1994. In particular, she confirmed that CU Decision No. 834 would not arbitrarily or unjustifiably discriminate between Members, where identical or similar conditions prevail, including between **EAEU member States** which were Members and other Members, with regards to requirements for on-site inspections, including for purposes of determination and maintenance of equivalence of the systems of control of products; and that CU Decision No. 834 would not be applied in a manner which would constitute a disguised restriction on international trade. The Working Party took note of this commitment.]

- (iii) Import Permits

102. As for import permits, the representative of Kazakhstan explained that since July 2010, the legal framework for the import permit regime of the **EAEU** was set-out in Section VI of the

Regulation on Veterinary Controls at the Customs Border of the Customs Union, adopted by the CU Commission Decision No. 317. This **R**egulation sets-out the following principles:

- Imports into the **EAEU** of certain goods subject to veterinary controls must have an import permit issued by the competent authority of the **EAEU member State** which was the point of destination for the imports; and
- The permit was valid for a calendar year, for quantities which are specified in the permit.

The permit was issued taking into account the epizootic situation of the place of production and, where the legislation required a registry of enterprises authorised to export the relevant goods to the territory of the **EAEU**, whether the enterprise was on that list of enterprises. Furthermore, "Rules of Issuing of Permits for Importation, Exportation and Transit of Goods Taking into Account Epizootic Situation of the Corresponding Territory" had been set at national level by the Government Resolution No. 132 of 19 January 2012.

103. She further explained that an import permit could be requested for any amount of goods and that the amount requested could not be the basis for refusing to issue the permit. Import permits had three functions: first, to ensure that the importer was in a position to handle the imported goods in a safe manner that complied with domestic, e.g., quarantine requirements; second, to take into account the epizootic situation of the exporting country; and third, to ensure that specific conditions, adapted to the epizootic situation of the exporting country, were met at the time of importation. The first function, in her view, was not discriminatory since the conditions required to be met by the operator were also checked in case of internal trade within the **EAEU** territory. The second function was that of a legal instrument to block or restrict imports in case of dangerous animal disease outbreaks in the exporting country. The third function could be used, for example, to require that certain imported animal products from countries with a specific epizootic situation be processed in designated facilities. In this case, import permits would be granted only to those importers who were able to channel the consignments to such facilities. Import permits also optimised logistics for importers and provided a means to coordinate activities of regulatory agencies.

104. As established in Government Resolution No. 132 of 19 January 2012, import permits were issued by the authorised body in the sphere of veterinary (the Committee of Veterinary Control and Supervision under the Ministry of Agriculture) upon request of its territorial branches. The Chief State Veterinary Inspector of a particular region was in charge of the epizootic and veterinary-sanitary safety of that region. Therefore, to obtain an import permit, traders applied in writing to the relevant region (raion/city) branch of the authorised body where the imported goods were being shipped. This was done for the convenience of importers. Applications had to contain a description of the goods' characteristics, country and place (establishment) of origin, purpose, transport type, route, the border entry point(-s) of Kazakhstan, place of destination in Kazakhstan with indication of the name and registration number of production or storage facility. In addition, Kazakhstan intended to amend the Resolution and add requirements including the location of the establishment, quarantine, processing and storage conditions, and the establishment's registration number, where required, and (or) name of the establishment in the country of exportation.

Region branches verified the compliance of transportation and storage facilities with veterinary rules, while the central authorised body verified (i) whether the exporting country was subject to a temporary ban due to an outbreak of an infectious disease, (ii) whether non-compliance with the **EAEU** veterinary and sanitary requirements had occurred, and (iii) presence of exporting establishment in the Register, where such a requirement applied. In cases where the requirements for obtaining import permit were not met, the exporter could re-apply after fulfilling the requirements. The authorised body issued the import permit within ten **working** days, but could also refuse a permit by written justification.

105. Some Members expressed concern at the general nature of the reasons for refusing the import permit and the lack of elements such as necessity or proportionality to the seriousness of the risk for health involved by such non-compliances. They sought clarification on whether the planned amendment to this Resolution would introduce these elements, which would be necessary in their view to ensure compliance with the corresponding WTO principles. The representative of Kazakhstan informed Members that Kazakhstan was in the process of drafting amendments to the Resolution that included such elements as necessity and/or proportionality to the seriousness of the risk for health involved by non-compliances in the part of reasons for refusing the import permits.

106. A Member of the Working Party asked Kazakhstan to clarify what constituted a non-compliance and whether the permit would be denied if the information provided by the trader would not comply with import permit requirements, e.g., storage. The representative of Kazakhstan replied that pursuant to Government Resolution No. 132 of 19 January 2012, as amended by [XXX], import permits could be refused only for the following reasons: (i) [in accordance with OIE guidelines, recommendations and standards and the SPS Agreement, introduction of] restrictions with respect to certain countries (regions) with unfavourable epizootic situation in the exporting country [,which was verified, including through contacts with the competent authorities of third countries]; (ii) [unacceptable level of sanitary and veterinary risk arising from] non-compliance with **EAEU** veterinary-sanitary requirements [of the **EAEU** as defined in the CU Decision No. 834 of 18 October 2011, national legislation of the Republic of Kazakhstan or sanitary and veterinary attestations agreed in bilateral certificates, as applicable]; or (iii), absence of an exporting establishment in the Register of Exporting Third Countries, [where such a requirement applied]. Kazakhstan being **an EAEU member State** followed Common Veterinary (Veterinary and Sanitary) Requirements, to Goods Subject to Veterinary Control (Surveillance), approved by CU Commission Decision No. 317 of 18 June 2010, as amended.

107. Some Members requested that when Kazakhstan's authorities denied an application for an import permit, they informed each applicant of the detailed reasons for the rejection and the exporting country if new conditions existed in that country would be the reason for refusing the import permit. The representative of Kazakhstan explained that the authorised body reviewed applications within ten working days. Within this period, the authorised body either issued an import permit or provided the applicant a written explanation of denial.

108. The representative of Kazakhstan confirmed that it had made available to importers, as well as to third-country exporters through the website of the Ministry of Agriculture [www.minagri.gov.kz] full detailed conditions for import of specific products. Furthermore, information on **EAEU** veterinary requirements was available on the **EAEU** website at the following address: http://www.eurasiancommission.org/ru/act/texnreg/depsanmer/regulation/Pages/Ветеринарно-санитарные-меры.aspx. The representative of Kazakhstan further confirmed that to this end, it would publish a list on the website of the National Enquiry Point in English of the products which were permitted to be imported into its territory; the countries and establishments authorised to export to Kazakhstan [and the territory of the **EAEU**]; and the conditions for import. Where an application for an import permit was denied, the relevant authority would inform the applicant of the reasons for this rejection within ten working days of the decision. The Working Party took note of these commitments.

109. Some Members asked Kazakhstan to confirm that its import permit system would comply with OIE rules, i.e., permits would not be refused on grounds not recognised by the OIE for the animal diseases concerned. Further, with regard to the discovery of unauthorised substances in cargos, Kazakhstan would comply with the principle of applying an SPS measure only to the extent necessary to protect human or animal life and health. In the view of these Members, a refusal to issue import permit after single findings of non-compliances with no immediate risk for the consumer would not comply with this principle. The representative of Kazakhstan confirmed that its procedures for considering applications for import permits would comply with these two principles. The Working Party took note of this commitment.

110. A Member of the Working Party expressed concerns regarding the import permit process for products under veterinary control. In light of other veterinary and sanitary import requirements (e.g., an agreed veterinary certificate), the Member considered the import permit process as an unnecessary requirement that could result in a barrier to trade in violation of the SPS Agreement. This Member of the Working Party noted that when developing SPS measures to protect human, animal or plant life or health within a country, the SPS Agreement required that Members take into account the objective of minimising negative trade effects and that such measures were not more trade-restrictive than required to achieve an appropriate level of SPS protection. The Member of the Working Party questioned compliance of Kazakhstan's measures with the SPS Agreement obligations.

111. The representative of Kazakhstan replied that use of import permit system in veterinary import control was not prohibited by the SPS Agreement. Further, the representative of Kazakhstan emphasised that import permit was important element of ensuring safety of the imported goods en-route since veterinary authorities of exporting countries could ensure safety of exported goods only within the territory under its control. She noted that import permits contained information outside of the competence of veterinary authority of exporting country, such as: purpose, transport type, route, the border entry point(-s) of Kazakhstan, place of destination in Kazakhstan with indication of the name and registration number of production or storage

facility, where required, and in the case of importing goods falling under CITES - the relevant import permitting number. This information was not present in veterinary certificates.

112. In response to a question from a Member, the representative of Kazakhstan confirmed that minor documentation errors which did not alter the basic data contained in the document were not a basis for refusing an import permit. The legal circumstance that served as grounds for starting this administrative procedure for revocation of an import permit was the discovery of systematic (e.g., liable to administrative or criminal prosecution) violations, by the importer of the regulated cargo, of **EAEU** Decisions and other **EAEU** Acts and the laws of Kazakhstan in the field of veterinary medicine (including the presentation of forged veterinary documents or the discovery of inconsistency between the presented documents and the regulated cargo). Furthermore, she confirmed that the reasons for suspension, cancellation, or refusal of an import permit would be consistent with international standards, recommendations, and guidelines and the WTO SPS Agreement. The Working Party took note of this commitment.

113. Further, the representative of Kazakhstan confirmed that from the date of accession of Kazakhstan to the WTO, the import permit regime applicable to goods subject to veterinary and quarantine control would be operated under **EAEU** Decisions, other **EAEU** Acts, and provisions of the Law of Kazakhstan that were published and available to the public and that these measures would be developed and applied in compliance with the WTO Agreement. The representative of Kazakhstan also confirmed that information requirements for the purposes of applying for an import permit would be limited to what was necessary for appropriate approval and control procedures and that any requirements for control, inspection and approval of individual specimens of a product were limited to what is reasonable and necessary as provided for in Annex C of the WTO SPS Agreement. Moreover, she confirmed that her Government would maintain and notify the public of a clearly defined procedure under which an applicant for an import permit could appeal the suspension, cancellation, or refusal of an application, have that appeal adjudicated, and receive a written response explaining the reasons for the final decision and any further action required to obtain a permit. The Working Party took note of these commitments.

114. Pursuant to CU Commission Decision No. 317, at the border, a veterinary inspector conducted (i) a documentary check and (ii) a physical inspection of the goods being imported. Samples at the border were taken only in case a veterinary inspector detected visible organoleptic changes. The veterinary inspector informed the relevant oblast branch of the authorised body (at the border) about the results of the inspection of the product subject to veterinary control and about the final destination of the product. Imported goods were then transported to their final destination where they were subjected to a visual inspection of the consignment. After passing the inspection, the veterinary certificate issued by the competent body of the foreign country was replaced with the veterinary certificate of the **EAEU**. The accompanying documents were stamped with the sign "Release permitted" or "Release forbidden". Thus, the imported goods that passed the veterinary control where considered as **EAEU** goods and subsequently were subject to the same treatment as domestically produced goods. She added that, pursuant to paragraph 2 of

Article 17 of the Law No. 339-II "On Veterinary", if a cargo owner was not satisfied with the results of veterinary control, he or she could appeal the actions (or failure to act) of veterinary inspectors to higher State veterinary officials and/or in court.

115. In response to Members' questions, the representative of Kazakhstan clarified that the legislation of Kazakhstan and of the **EAEU** did not contain rules obliging exporting countries to carry out veterinary and sanitary checks at the external borders of exporting parties.

116. A Working Party Member requested that Kazakhstan guarantee that there would not be such procedures in place, which caused undue delays and ensure treatment in no less favourable manner for imported products than for like domestic products. The Member stated that the control system seemed to be a duplication of checking - first at the border and then under customs control. In this respect, this Member asked the representative of Kazakhstan to confirm further that there would be no undue delays with this system in place. This Member of the Working Party expressed the view that additional testing appeared excessive given that a shipment had to be accompanied by a veterinary certificate and import permit and come from an approved facility and had been inspected prior to exportation. This Member further noted that Kazakhstan's requirements for inspection at the border and then a full re-inspection for all shipments when clearing customs appeared to be unjustified for SPS reasons, a burden on trade, and inconsistent with national treatment. Another Member of the Working Party enquired if and how Kazakhstan was planning to introduce the mechanism of random inspections instead of samples of each specific shipment (the current system).

117. In reply, the representative of Kazakhstan stated that pursuant to paragraph 6.5. of the Regulation on Veterinary Control as adopted by CU Commission Decision No. 317, after documentary checks, physical inspections were carried out on a random basis as follows: not more often than one consignment per ten consignments of meat or fish **and one consignment per twenty consignments of other controlled goods** originating from a specific country, except for live animals, where each consignment was subject to physical inspection. Physical inspection on the border could be conducted by checking of accessible part of the consignment. Laboratory tests were conducted only in cases of revealing visible organoleptic changes during physical checks (paragraph 3.14.3.). Kazakhstan had removed the requirement of laboratory checks of each imported consignment and replaced it with the system of keeping a register of exporting facilities of third countries. In her view, such a practice was widely used in the most advanced WTO Members and was not contradictory to the WTO SPS Agreement.

- (iv) Transit Permits

118. With respect to transit, the representative of Kazakhstan stated that since 1 July 2010, the legal framework for the issuance of transit permit was set in Decision No. 317 of the CU Commission, in Chapter VII of the "Regulation on the Single System of Veterinary Control at the Customs Border of the Customs Union" as amended by CU Commission Decision No. 724 of 22 June 2011. The principles set at **the EAEU** level were the following:

- A transit permit was required only for transit of live animals and raw materials of animal origin. The transit permit was issued by the **EAEU member State** whose territory was the first entry point;
- Veterinary control of controlled goods at entry points was carried out after the submission of a waybill and (or) veterinary certificate;
- After completion of documentary control, veterinary inspection of animals was carried out, including: identification numbers of animals were compared (tattoos, chips, ear tags, stamps, etc.) with numbers indicated in veterinary certificates, conditions of carriage were verified, and the condition of animals and possibility of their further transportation were examined;
- Examination during transit of controlled goods (except for animals) was performed only by State regulatory authorities at a check-point or in the presence of information about non-conformity of controlled goods to the declared goods;
- According to the results of monitoring, the Border Control Inspection Post Officer made a decision and put a stamp on the shipping documents and on the veterinary certificate, in accordance with the form of Annex No. 3: "Transit enabled" or "Transit prohibited", and at the point of exit from the customs territory of the **EAEU**, a stamp "Transit Completed", then assured it by the seal and signature, indicating such Officer's name and initials;
- All necessary data was entered in the register of transit in the form in accordance with Annex No. 9 of that Regulation and entered into the system of electronic records; and
- The owner of the controlled goods, who received the permit of transit of controlled goods through the territory of the **EAEU**, had to comply with the veterinary legislation of the **EAEU**.

119. According to Government Resolution No. 132, transit permits were issued within 30 working days upon written application with indication of the following information:

- for juridical persons carrying transited goods: name, address and registration number of the production facility, for physical persons carrying transited goods: family name, given name, patronymic (if any), address and registration number of the production facility;
- **name** of the transited good;
- quantity of transited good and its measurement unit;
- exporting or importing country and country of origin;
- type of transport;
- list of border check-points of Kazakhstan through which the goods will be transited; and,
- transit route, places of stopping, loading-unloading, places of animal feeding, conditions of animal or goods transfer coordinated with a chief veterinary inspector of territorial administrative unit, **or his Deputy,** through which the goods will be transited.

In accordance with Government Resolution No. 132, as amended by [xxx], a transit permit could be refused only for the following reasons: (i) absence of any of the above information; (ii) unfavourable epizootic situation in the country [or region] of origin and transited places [in accordance with the WTO SPS Agreement and OIE guidelines, recommendations and standards]; and (iii) importing country did not permit such imports.

120. Some Members expressed concerns regarding the requirement that controlled goods in transit, which had been inspected and were conveyed under seal, had to comply with **EAEU** veterinary requirements. From these Members' perspective, this requirement could not be justified as a safety measure and restricted trade with third countries.

121. The representative of Kazakhstan noted concerns from Members regarding the requirement for controlled goods in transit to comply with **EAEU** veterinary requirements and confirmed that CU Commission Decision No. 317 had been amended by CU Commission Decision No. 724 of 22 June 2011 to eliminate this requirement, so that, controlled goods transiting through the

territory of the **EAEU** under customs seal would not be subject to **EAEU** veterinary requirements. In addition, the representative of Kazakhstan confirmed that the relevant provisions of CU Commission Decision No. 317, and any administrative regulations and other measures relating to the transit of goods subject to veterinary control through the territory of Kazakhstan would be applied in compliance with the OIE Code and the WTO SPS Agreement. The Working Party took note of these commitments.

(e) Trade in Goods Subject to Phytosanitary Control

122. The representative of Kazakhstan stated that the **Section XI (Articles 56, 59) and Annex 12 of the EAEU Treaty** provided the legal framework for plant quarantine in Kazakhstan. **These provisions** stipulated that regulations must take into account the **international** and **regional standards, guidelines and (or) recommendations, except for the cases when, based on appropriate scientific justification, phytosanitary quarantine measures that ensure a higher level of phytosanitary quarantine protection than measures based on relevant international and regional standards, guidelines and (or) recommendations are applied. EAEU** plant quarantine measures were further established in CU Commission Decision No. 318 of 18 June 2010 "On **Providing Plant Quarantine in** the Customs Union" (as last amended by **EEC** Decision No**. 25 of 24 April 2014**). Decision No. 318 included the following documents:

- The list of products under quarantine (regulated goods, regulated articles of regulated products), i.e., which are subject to quarantine phytosanitary control (supervision) at the customs border of the Customs Union and in the customs territory of the Customs Union;
- Regulations on the implementation of quarantine phytosanitary control (supervision) at the customs border of the Customs Union; and
- Regulation on the implementation of quarantine phytosanitary control (supervision) at the customs territory of the Customs Union.

123. The representative of Kazakhstan further clarified that the **EAEU** did not have common phytosanitary requirements and that these were developed and implemented at the national level. The representative explained that further harmonization among the **EAEU member States** was ongoing. For example, the **EAEU member States** were in the process of reviewing and conducting pest risk assessments in order to harmonize the quarantine pest and disease list, with subsequent introduction of common phytosanitary requirements to regulated products in 2014. The draft of a common list of quarantine pests and diseases had been developed and undergone public consultations in July 2012. At the moment, the draft was under discussion by the **EAEU member States**. Until the **EAEU member States** had harmonized their quarantine pest and disease list and introduced common phytosanitary requirements, the national quarantine pest and disease lists and phytosanitary requirements for regulated products would remain valid.

124. A Member of the Working Party asked Kazakhstan to clarify whether Kazakhstan's legislation was based on international standards developed by the IPPC. In reply the representative of Kazakhstan stated that legislation of the Republic of Kazakhstan on plant quarantine to a large extent was based on the provisions and principles stipulated by the WTO Agreement on Application of SPS Measures, the International Plant Protection Convention and the Convention for the Establishment of the European and Mediterranean Plant Protection

Organization. For instance, Article 13 of the Law "On Plant Quarantine" and the Government Resolution No. 1730 "On Approval of the Rules for Protection of the Territory of the Republic of Kazakhstan from Plant Quarantine Objects and Alien Species", of 30 October 2009, which provided for the procedures of issuing documents, inspections and control complied with IPPC standards such as No. 12 "Guideline on phytosanitary certificates", No. 23 "Guideline on inspections" and No. 7 "Certification system for exports". Kazakhstan accepted phytosanitary certificates that complied with the requirements of IPPC Standard No. 12 and relied on guarantees of the NPPO of the exporting country. She also added that the time-frames of laboratory expertise on pests and weeds were reduced to up to three working days, and plant diseases – ten working days. In addition, within the framework of the **EAEU**, quarantine import permits on import of quarantine products were abolished.

125. Trade in regulated products on the territory of the Republic of Kazakhstan in addition to **EAEU** regulations was regulated by the following national legislation: Government Resolution No. 1295 "On Approval of the List of Quarantine Facilities, Alien Species and Extremely Dangerous Pests" of 10 December 2002, Government Resolution No. 1287 "On Approval of the Rules on Withdrawal and Destruction of Quarantine Products, Infected by Quarantine Objects, Not Subject to Decontamination or Processing" of 3 November 2011, Government Resolution No. 1730 "On Approval of the Rules for Protection of the Territory of the Republic of Kazakhstan from Plant Quarantine Objects and Alien Species" of 30 October 2009, Government Resolution No. 1674 "On Approval of Phytosanitary Requirements to Imported Quarantine Products" of 30 December 2011, Government Resolution No. 1396 "On Approval of the Rules on Registration Tests and State Registration of Pesticides (Chemical Insecticides) in the Republic of Kazakhstan" of 30 November 2011.

126. The representative of Kazakhstan said that the Division of Phytosanitary Safety was in charge of strategic planning in the sphere of phytosanitary safety, including budgeting. The Committee of State Inspection in the Agro-Industrial Complex of the Ministry of Agriculture of the Republic of Kazakhstan was in charge of developing rules and regulations in this area and conducting phytosanitary quarantine control (surveillance) on the territory of the Republic of Kazakhstan, including phytosanitary quarantine border control (surveillance), measures on protection of plants from pests, monitoring of agricultural lands against plant pests and diseases. In addition, the phytosanitary control framework included (i) State quarantine institutions; (ii) the State enterprise "Phytosanitary"; (iii) State inspection branches of oblasts, Astana and Almaty; (iv) phytosanitary inspectors of the raion (region)(or city) territorial administrations; and (v) border check-points and internal posts of phytosanitary control. The State enterprise "Republican Center of Phytosanitary Diagnostics and Prognosis" conducted surveys of Kazakhstan's territory to determine the location of an outbreak. State enterprise "Republican Quarantine Laboratory" identified species composition of quarantine pests and diseases. State enterprise "Republican Plant Introduction Nursery of Fruit and Berry Crops" and "Republican Plant Introduction Nursery of Field Crops" were in charge of detection of latent infestation of plant products (seed and planting stock). State enterprise "Phytosanitary" conducted localisation and

extermination of outbreaks of quarantine pests and diseases. In reply to additional question, the representative of Kazakhstan clarified that state inspection branches of the raion (region)(or city) territorial administrations, oblasts, Astana and Almaty were in charge of (i) control over phytosanitary conditions of the territory and measures on plant quarantine; (ii) surveillance of land plots, agricultural lands, grain storage and other facilities; (iii) control over organization of disinfection measures; (iv) quarantine inspection, sampling for laboratory testing, issuing phytosanitary certificates; (v) control over compliance of entities to phytosanitary rules; and (vi) taking administrative action against physical and juridical persons liable for violation of phytosanitary rules. Inspectors at the border check-points and internal posts of phytosanitary control were in charge of (i) phytosanitary control, inspection, including documentary checks, of imported and exported good subject to phytosanitary control as well as goods moving within the territory of Kazakhstan, respectively; (ii) issuing orders to cargo owners on conducting necessary plant quarantine measures in accordance with legislation in the sphere of plant quarantine; and (iii) taking administrative action against physical and juridical persons liable for violation of phytosanitary rules.

127. In response to a question from a Member, the representative of Kazakhstan explained that the appropriate level of sanitary or phytosanitary protection was defined as the required level of protection established by a technical regulation for products and phytosanitary requirements to regulated products, produced on the territory of Kazakhstan aimed at prevention of factual scientifically grounded risks. The representative of Kazakhstan confirmed that **the EAEU Treaty**, **EAEU** acts, and Kazakhstan's legislation did not and would not in future establish additional SPS requirements for imported products that exceeded the requirements established for **the EAEU** or domestic products. The Working Party took note of this commitment.

128. The existing list of products under quarantine (regulated goods) that were subject to quarantine phytosanitary control at the customs border of the **EAEU** and the territory of the **EAEU** was divided into two groups: (i) quarantine products of high pest risk; and (ii) quarantine products of low pest risk. Classification of quarantine products to high and low pest risks in the list of quarantine products approved by CU Decision No. 318 was based on risk assessment of possible contamination and infestation by quarantine pests, biology and hazard posed by quarantine pests, which can spread in certain quarantine products, conducted by at least one of the **EAEU member States** taking into account ISPM 32. The representative of Kazakhstan explained that imports of quarantine products of high pest risk would need to be accompanied by a phytosanitary certificate. No phytosanitary certificate was required for imports of regulated products of low pest risk. The list of quarantine products with their HS codes was included in CU Commission Decision No. 318. She further explained that a number of products were now excluded from the high pest risk list, such as raw cane sugar, sugar from beets, natural sands of all kinds, gravel, sand, fish meal, meat meal or meat by-products, protein concentrates, protein-vitamin concentrates and protein pre-mixes. The representative of Kazakhstan confirmed that pest risk analysis was conducted to determine appropriate level of control for these products. The up-to-date list of goods subject to quarantine phytosanitary control was available to the public on the EEC website

at **http://www.eurasiancommission.org/en/act/texnreg/depsanmer/regulation/Pages/Фитосанитарные-меры.aspx**. The representative of Kazakhstan confirmed that products not included in the list of goods subject to phytosanitary controls were allowed to enter the **EAEU** territory without phytosanitary restrictions.

129. In line with international practice, when products subject to phytosanitary control were imported from countries with registered cases of quarantine spread of quarantine organism in certain areas, imports of products under plant quarantine control were allowed if the products came from pest-free areas, or pest-free places of production or pest-free production sites, determined in accordance with ISPMs Nos. 4 and 10 [if norms and principles of ISPM 20 have been applied] or if country of export guaranteed that appropriate measures provided for in the Kazakhstan/**EAEU** legislation to ensure the absence of the quarantine organisms in the exported commodity, were carried out. In cases during phytosanitary control it was detected that regulated products subject to phytosanitary control were infected by quarantine organisms, these products could undergo disinfection (decontamination) at the destination points or at the border. In case, if regulated products did not undergo decontamination, they would be destroyed or returned to the exporting country. [In cases when the imported regulated products were in some way inconsistent with existing phytosanitary rules and regulations or such products were prohibited for importation into the Republic of Kazakhstan they would be destroyed or returned to the exporting country]. At the same time, in case quarantine organisms were detected in imported products and the exporting country did not take the appropriate measures, Kazakhstan, in accordance with paragraph 6 Article 7 of the IPPC, reserved the right to apply emergency (extraordinary) phytosanitary measures in order to restrict or ban importation of such products. Kazakhstan would notify the relevant Member of application of such measures [in accordance with ISPM No. 13]. Any natural or juridical person could appeal the actions (or inaction) of Government officials regarding this issue.

130. A Member asked Kazakhstan to confirm that Kazakhstan would accept replacement certificates as foreseen by international guidelines ISPM 12:2011. In reply, the representative of Kazakhstan stated that Kazakhstan would recognise phytosanitary certificates issued as replacement for legitimate phytosanitary certificates provided the national body on quarantine and plant protection (hereinafter the NBQPP) of the exporting country in accordance with international standard of phytosanitary measures No. 12 ensured and confirmed the following: 1) phytosanitary safety of quarantine products; 2) that prior to exporting quarantine products, the NBQPP of the exporting country had carried out sampling, inspection and treatment of quarantine products necessary to comply with the phytosanitary requirements of the Republic of Kazakhstan; 3) integrity of quarantine products from the moment of shipment until importation of quarantine products. She further noted that EEC Council Decision No. 50 of 16 August 2013 approved amendments to paragraph 4.1.6 of the Regulation on the Procedure for Quarantine Phytosanitary Control (Supervision) on the Customs Border of the **EAEU** approved by CU Commission Decision No. 318 of 18 June 2010 that provided recognition of phytosanitary certificates issued as replacement.

131. In reply to a question, the representative of Kazakhstan clarified that the "appropriate information" meant information, presented in the section "Additional declaration" of the phytosanitary certificate, confirming that controlled goods were cultivated in the zones and/or produced in places free from harmful quarantine organisms as well as information on compliance with other phytosanitary requirements of Kazakhstan.

132. A Member of the Working Party asked whether, Kazakhstan accepted imports of regulated goods from areas affected by certain quarantine pests, provided that certain mitigation measures were applied, as provided in relevant IPPC recommendations, and, if this was the case, whether Kazakhstan had defined which mitigation measures it accepted for each combination of pest and commodity. The representative of Kazakhstan replied that mitigation measures were acceptable. However currently, normative legal acts of Kazakhstan did not define which mitigation measures could be applied in each case. Kazakhstan confirmed that it was ready to assess mitigation measures proposed by exporting countries within a reasonable period of time, as set-out in international standards, guidelines and recommendations.

133. In urgent situations (outbreak) the authorised body, depending on the phytosanitary conditions of the exporting country, could introduce provisional restrictions or bans importation of products subject to phytosanitary control. In such circumstances, the authorised body would provide all pertinent information about its actions to the relevant service of the exporting country. Where repeated supply of infected products subject to phytosanitary control had been registered, a ban on the importation of the relevant product could be imposed. She added that contentious issues were normally open for negotiation.

134. The representative of Kazakhstan noted that, in certain circumstances, the import requirements could include, in cooperation with the NPPO of the exporting country, an audit in the exporting country by the NPPO of the importing country of elements, such as: 1) production systems; 2) treatments; 3) inspection procedures; 4) phytosanitary management; 5) accreditation procedures; 6) testing procedures; 7) surveillance. She further stated that such measures were provided for in ISPM 20 paragraph 5.1.5.1 and thus, they were in line with the IPPC principles and norms. A Member asked Kazakhstan to confirm that audits as described in this paragraph would be carried out only in exceptional cases, and would aim to check the phytosanitary system of the exporting country, but would not result in a system of individual approval for export.

135. In reply, the representative of Kazakhstan stated that audit described in this paragraph was intended to reduce the risk of introduction of quarantine objects to the territory of the Republic of Kazakhstan. The audit would be conducted to the extent necessary to ensure that the risk of introduction of quarantine objects to the territory of Kazakhstan and the risk of non-compliance of regulated products with quarantine rules and regulations was acceptable for the Republic of Kazakhstan. In addition, goods subject to phytosanitary control could only be imported through border check-points equipped in accordance with Kazakhstan's plant quarantine rules and norms.

[Kazakhstan confirmed that audits as described in this paragraph would be carried out only in **special** cases, **for example if there was evidence of repeated violations of food safety requirements (such as the detection of contaminants above regulated levels), as opposed to incomplete or inconsistent paperwork infractions**].[1]

[Kazakhstan confirmed that audits as described in this paragraph would be carried out only in special cases, for example, when new trade relations were established or there was a problem, and in case of repeated inconsistencies **or non-compliance with quarantine phytosanitary requirements**.][2]

136. The representative of Kazakhstan stated that when taking phytosanitary measures, Kazakhstan's authorities followed the relevant international practice and provisions established in the IPPC and the WTO SPS Agreement, including conducting a risk assessment. She confirmed that, from the date of accession of Kazakhstan to the WTO, if the phytosanitary requirements of Kazakhstan resulted in a higher level of protection than would be achieved by measures based on relevant international standards, recommendations or guidelines, Kazakhstan would apply its phytosanitary requirements in accordance with the WTO SPS Agreement. She also confirmed that the authorities of Kazakhstan would consult with exporting Members on the measures in question, if requested. Furthermore, from the date of accession of Kazakhstan to the WTO, if phytosanitary requirements applied in Kazakhstan resulted in a higher level of protection than would be achieved by measures based on relevant international standards, recommendations or guidelines, Kazakhstan would provide explanations of the reasons for such phytosanitary measure, including the relevant risk assessment, on a bilateral basis following receipt of a request from an exporting Member pursuant to Article 5.8 of the WTO SPS Agreement. The Working Party took note of these commitments.

137. Pursuant to Law No. 331-II "On Plant Protection" of 3 July 2002, pesticides had to undergo registration and production trials, carried out by research and other organizations of Kazakhstan; subsequent registration followed in case of favourable trial results. The tests had to be carried out under the control of the territorial branches of the Committee of State Inspection in the Agro-Industrial Complex, in accordance with the "Rules on Registration Tests and State Registration of Pesticides (Chemical Insecticides) in the Republic of Kazakhstan" approved by the Government Resolution No. 1396 of 30 November 2011. Registration trials were carried out to (i) determine the biological effectiveness of pesticides; and (ii) detect recommended doses and methods of use for production purposes, which were intended for Kazakhstan's soil-climatic conditions and cultivated crops. Production trials represented field trials of the recommendations that had been elaborated during the registration trials. Registration and production tests took two to three years. The Ministr**y** of **Energy** and the **Committee of Consumer Rights** Protection examined pesticides subject to registration for the purposes of protection of human health and the environment. Pesticides included into the Register of Potentially Hazardous Chemical Substances Prohibited for Use in Kazakhstan could not be registered.

[1] **Language proposed by a Member of the Working Party**.
[2] **Language proposed by Kazakhstan.**

(f) Protection of Human Health

138. The representative of Kazakhstan explained that CU Commission Decision No. 299 established the "Common List of Goods Subject to Sanitary-and-Epidemiologic Supervision (Control) at the Customs Border and on the Customs Territory of the Customs Union" (hereinafter – the Common List) (Part I) as amended by CU Commission Decision No. 859 of 9 December 2011 and as last amended by EEC Council Decision No. 115 of 17 December 2012, and established food safety requirements for corresponding goods. Products produced in, or imported into the customs territory of the **EAEU** for distribution to the population, use in industry, agriculture, civil construction development, transportation with direct human involvement, or for private and household use, had to conform to the **Decision No. 299 and** relevant **technical** regulations. She further explained that the conformity to the safety requirements groups of goods was to be confirmed by a State Registration certificate, as provided for in Commission **d**ecisions and domestic law. The Commission had approved a list of goods for which State Registration Certificates must be supplied during customs clearance.

139. The Committee **of Consumer Rights Protection** was the authorised body responsible for issues related to sanitary and epidemiological welfare. The sanitary and epidemiological service was a single system consisting of (i) the authorised body and its border and territorial branches; and (ii) organizations of sanitary and epidemiological services (the Republican **State Enterprise "Scientific and Practical Center of** Sanitary and Epidemiological **Expertise and Monitoring**", State organizations for sanitary and epidemiological expertise). When developing and approving regulatory acts related to the production, importation, turnover, use, and destruction of substances/processes that could potentially affect human health, Government agencies sought the consent of the authorised body on sanitary and epidemiological welfare.

140. In addition to **EAEU** regulations, the national legislation in the sanitary sphere was comprised of the following acts: Code of the Republic of Kazakhstan No. 193-IV "On Public health and Healthcare System" of 18 September 2009, Law No. 301 "On Food Safety" of 21 July 2007, Government Resolution No. 125 "On Approval of the Rules for Assignment of Registration Numbers to Entities Producing Food Products" of 11 February 2008, Government Resolution No. 2267 "On Approval of the Rules for Refusal for Entry, as well as for Production, Use and Sale of Products Intended for Human Consumption, on the Territory of the Republic of Kazakhstan, as well as for Use in Business and (or) Other Activities" of 30 December 2009.

141. [Members expressed concern that during joint inspections **EAEU** inspectors requested systematic testing results for each lot from all types of exported products, including raw or processed, from each visited establishment, prior to export to the **EAEU**. The representative of the Republic of Kazakhstan explained that the issue of recognition of monitoring, conducted at the national level and at the level of food producing establishment, as an equivalent measure of exporting country would be considered during audit of the national control system of exporting countries. According to paragraph 43 of the CU Decision No. 834, national monitoring programs were taken into account in the assessment of third countries' guarantees. Furthermore, according

to paragraph 51 of the same Decision, national monitoring programs were taken into account in on-site inspections of exporting establishments. In reply to specific request of a Member, she explained that the CU and national regulations did not contain systematic testing requirements for each lot from all types of exported products. Paragraph 58 of the CU Decision No. 834 stipulated that upon arrival to establishment of third country, inspector, among others, had to make analysis on existence of official control and application of production control, such as HACCP, for the purposes of ensuring safety of products. In this case analysis on existence of official control meant that inspectors would check whether the establishment was subject to control by competent authorities of the exporting country, such as on-site inspections by the competent authority of the exporting country (risk based frequency of such inspections, inspection criteria, results and records of the inspections) or state registration of facilities. The representative of Kazakhstan has confirmed that testing of products by food business operators' self-check were accepted. She further confirmed that **EAEU** inspectors did not request testing in official laboratories for the conformity with **EAEU** requirements.]

142. Some Members noted that under CU Commission Decisions, the State Registration procedure applied only to certain groups of goods included in Part II of the Common List was approved by the CU Commission Decision No. 299. Members requested information on whether domestic provisions still applied, and, if so, what criteria were used for determining that a product was marketed for the first time in the territory of the **EAEU** or the territory of Kazakhstan.

143. In response, the representative of Kazakhstan explained that national legal acts were applied to the extent that they did not contradict CU Commission Decision No. 299 of 28 May 2010. Such provisions in national law related to the determination of the competent authority, the order of involvement of organizations and experts into the procedure of State Registration, the order of appellation of refusal of State Registration, and keeping of the national part of the Register of State Registration Certificates. CU Commission Decision No. 299 specified the list of products subject to State Registration. Thus, only products listed in CU Commission Decision No. 299 were subject to State Registration. The representative of Kazakhstan explained that the State Registration procedure applied:

- only to certain groups of goods, which were listed in points 1 to 11 of Part II of the Common List of Goods Subject to Sanitary and Epidemiological Control, set-out in CU Commission Decision No. 299 (these include: mineral water, bottled drinking water packaged in containers, tonic beverages, alcoholic beverages; specialised foodstuffs, including food products for children, food products for pregnant and nursing women, dietary products; biologically active dietary supplements, raw materials for production of biologically active dietary supplements, organic products; foodstuffs derived from GMO, GMO; food additives, flavourings, technological aids including enzymes; and food contact material);
- only if the goods were covered by CN codes listed in the table of Part II to the Common List of Goods Subject to Sanitary Controls (CU Commission Decision No. 299); and
- if the goods were manufactured for the first time on the territory of the **EAEU** or imported for the first time into the **EAEU** territory, and no prior State Registration had occurred, or in cases where the introduction of **EAEU** requirements necessitated the issuance of a new State Registration Certificate.

144. The representative of Kazakhstan specified that these three cumulative criteria, to determine whether a State Registration Certificate was required, were specified in the last paragraph of point 11 in Part II to the Common List of Goods Subject to Sanitary and Epidemiological Control ("Goods specified in points 1 to 11 of the present Part, included in the following comprehensive headings of the **EAEU HS Code**, manufactured for the first time on the **EAEU** customs territory, as well as imported for the first time to the **EAEU** customs territory, are subject to State Registration").

145. The State Registration Certificate was issued for a given type of product and was valid for exports from the relevant country without time limitation, provided there had been no violations of the regulations during the preceding period. If there were violations found during surveillance at the border, the State Registration Certificate could be temporarily revoked. Applications for evaluations were to be submitted to **the** Committee **of Consumer Rights Protection** or its territorial bodies. State Registration Certificates were valid throughout the entire territory of the **EAEU**. For domestically produced products, sanitary and epidemiological surveillance was conducted by the territorial authorities of the Committee **of Consumer Rights Protection** at the stage of distribution of products on the Kazakhstan's domestic market. In response to questions from a Member of the Working Party, the representative of Kazakhstan stated that the State Registration Certificates for domestic products were also issued for a given type of product and were valid for an unlimited time period. In her view, the respective procedures and requirements did not discriminate between domestic and imported products. The process for issuing a State Registration Certificate could not exceed 30 days after application was received. If the application was rejected, **the** Committee **of Consumer Rights Protection** sent a letter to the applicant explaining what needed to be changed. After corrections were made, the applicant could re-submit the application.

146. The representative of Kazakhstan explained that, since 1 July 2010, a State Registration Certificate was issued in accordance with the common **EAEU** form and was valid throughout the customs territory of the **EAEU**. The certificate confirmed that the controlled goods conformed to **EAEU** Common sanitary and epidemiologic and hygienic requirements. The period of validity of the State Registration Certificate covered the whole period of manufacture or delivery of controlled goods to the territory of the **EAEU**. The representative of Kazakhstan further explained that the State Registration Certificate was harmonized among the **EAEU member States** and that each **member State** recognised the right of each other **member State** to issue this certificate and that a State Registration Certificate would be valid throughout the territory of the **EAEU**.

147. In response to a specific question, the representative of Kazakhstan stated that the term "new products" meant products developed and industrially manufactured for the first time on the territory of Kazakhstan and also products imported into the territory of Kazakhstan for the first time, i.e., which were not on sale in Kazakhstan before. The absence of a prior State Registration indicated that the product was new to the market of Kazakhstan and State Registration was

required. She also explained that the producer, supplier, or importer could submit an application for State Registration of products.

148. Some Members noted that points 1 to 11 of Part II of the Common List of Goods Subject to Sanitary and Epidemiological Control included Non-Food Products, such as disinfectants, cosmetics or hazardous chemical substances. The representative of Kazakhstan clarified that CU Commission Decision No. 299 covered the protection of human health in general from risks derived from both food and non-food products.

149. The representative of Kazakhstan explained that some commodities were also subject to mandatory confirmation of conformity to **EAEU** requirements. The list of such commodities, which also contained references to quality standards and quality requirements for these products, was approved by the Decision of the Customs Union Commission No. 620 of 7 April 2011 which replaced the list in the CU Commission Decision No. 319 of 18 June 2010, and included the following food and feedstuffs: (i) canned food products (fish, caviar, seafood); (ii) fat-free dry milk; and (iii) feeds for animals, including formula feeds, pre-mixes, protein feed additives, such as oilseeds meal and cake, fish meal, protein-vitamin additives, dry milk for feeding and dry milk replacements. Until 1 January 2011, confirmation of conformity for these food products was carried out in accordance with national legislation of each **EAEU member State**. From 1 January 2011, the declaration of conformity was provided upon assessment by the certification bodies and testing laboratories (centres) included into the Single Register of Certification Bodies and Testing Laboratories (centres) of the **EAEU**. With regard to feedstuffs, from 1 July 2010, self-declaration of conformity could be made on the basis of an assessment provided by the producer. Foreign manufacturers and (or) suppliers, located outside the territory of the **EAEU**, could apply for a certificate/declaration of conformity that was issued in accordance with national legislation of an **EAEU member State** or for **an EAEU** certificate of conformity or declaration of conformity of a common **EAEU** form, as approved by CU Commission Decision No. 319 of 18 June 2010, as amended by the EEC Collegium Decision No. 226 of 13 November 2012. The representative of Kazakhstan further explained that references to quality standards and quality requirements with regard to products on the List of Commodities Subject to Mandatory Confirmation of Conformity would be revised as the **EAEU member States** adopted **EAEU** technical regulations on specific products.

150. She further noted that pursuant to the Regulation of Conduct of State Sanitary-Epidemiological Control adopted by the CU Commission Decision No. 299, food products included into Part II the Common List and produced or imported in the **EAEU** territory had to be accompanied with a document confirming safety of the products, i.e. State Registration Certificate, issued upon results of testing conducted by the laboratories included into the Common List of Certification Bodies and Laboratories of the **EAEU**. Such testing had to be conducted by exporters for the purposes of compliance with the Common Sanitary Epidemiological Requirements. Food products included into Part I of the Common List but not included into Part II the Common List, and produced or imported into **the EAEU**, had to be accompanied with a document of

producer (or its authorised supplier) certifying the safety of products. The representative of Kazakhstan, however, noted that these requirements were applied as an interim system of safety control of food products which would gradually be replaced with the requirements of technical regulations for respective food products.

(g) Compliance of the SPS Regime with Specific Provisions of the WTO SPS Agreement

- (i) Harmonization with International Standards and Norms

151. [The representative of Kazakhstan confirmed that, [in cases in which no mandatory requirements on veterinary or phytosanitary, or sanitary epidemiological and hygienic requirements had been established at **EAEU** or national level, the **EAEU member States** would apply the relevant standards, guidelines and recommendations, or parts thereof, of the OIE, IPPC and Codex respectively]. Similarly, if veterinary, phytosanitary or sanitary-epidemiological and hygienic requirements in effect in the territory of the **EAEU** [were more stringent than] [resulted in a higher level of sanitary and phytosanitary protection than would be achieved by measures based on] relevant international standards, guidelines and recommendations, or parts thereof, in the absence of scientific justification of risk to human, animal or plant life or health, the **EAEU member States** would apply the relevant international standards, guidelines and recommendations or parts thereof,[as provided for in the SPS Agreement]. [The representative of Kazakhstan confirmed that this obligation currently was included in the **EAEU** legal framework through CU Commission Decision No. 721, and would continue to be a mandatory part of the **EAEU** legal framework in the future.] The Working Party took note of these commitments.]

152. Some Members sought assurances that, pursuant to CU Decision No. 721, in cases where a WTO Member officially notified **an EAEU member State** that an SPS requirement in force on the **EAEU** territory was more stringent than the relevant international standard, this international standard was immediately applied unless and until such time that a risk assessment, done in accordance with international standards, was provided.

153. In reply, the representative of Kazakhstan said that in cases where a WTO Member officially notified **an EAEU member State** that an SPS requirement in force on the **EAEU** territory was more stringent than an international standard, the relevant international standards or parts thereof were applied by the **EAEU member State** unless and until scientific justification of risk was provided, [as stipulated in the SPS Agreement]. She further stated that the **EAEU member State** would reply within a reasonable period of time to the Member that either the international standard applied or provide relevant scientific justification.

154. The representative of Kazakhstan informed Members of the Working Party that the CU Commission had adopted Decision No. 625 of 7 April 2011 "On Harmonization of CU Legal Acts in the Field of Sanitary, Veterinary and Phytosanitary Measures with International Standards" as amended by CU Commission Decision**s** No**s**. 722 of 22 June 2011 **and 11 of 7 March 2012**. According to the Decision, **EAEU** SPS measures that, after examination, were recognised as more stringent than international standards, without scientific justification for such restriction or risk to

human, animal or plant life or health would be brought into conformity with international standards. She noted that foreign governments could bring measures to the attention of the **EAEU member States** and participate in the examination.

155. The representative further informed Members of the Working Party that in connection with implementation of CU Commission Decision No. 625, EEC Collegium Decision No. 212 of 6 November 2012 approved the Regulation on the Uniform Procedure of Carrying Out Examination of Legal Acts of the Customs Union in the Sphere of Implementation of Sanitary, Veterinary and Phytosanitary Measures", which had replaced CU Commission Decision No. 801 of 23 September 2011. Some Members of the Working Party expressed concern that the implementation procedure was unnecessarily burdensome and lengthy.

156. [The representative of Kazakhstan confirmed that the **EAEU** would apply MRLs on chlorothalonil, clofentezine, cyprodinil, kresoxim-methyl, iprodione, propamocarb, pirimicarb, thiabendazole, carbendazim, famoxadone, copper compounds, and lambda cyhalothrin that corresponded to international standards in conformity with the WTO SPS Agreement no later than the date of the accession of [Kazakhstan] [the first **EAEU member State** to the WTO], and that these MRLs would be set-out in **EAEU** acts. The Working Party took note of this commitment.]

157. A Member of the Working Party noted that the harmonization process for MRLs of veterinary drugs should also include elimination of zero-tolerance or very low tolerance in food of veterinary substances when these substances are authorised for use in Kazakhstan/**EAEU** under similar conditions to those in place in exporting countries, notably similar length of withdrawal periods. The Member further asked to clarify how withdrawal periods had been set in Kazakhstan, how it was ensured that those withdrawal periods enabled achieving the very strict MRLs applicable for some antimicrobial substances and asked if these withdrawal periods allowing to reach the required **EAEU** MRL for preparations containing tetracyclines could be communicated to requesting Members. The Member sought confirmation that OIE recommendations for marketing authorisation had been followed and that the MRL used in studies submitted at the time of granting the marketing authorisation by Kazakh veterinary authorities was the same as the MRL recently set by **EAEU** norms.

158. The representative of Kazakhstan replied that zero-tolerance or very low tolerance of veterinary drug residues in food has been established based on a risk assessment. Authorization of use of such veterinary drugs in Kazakhstan does not mean that MRLs established for these veterinary substances could not be respected. Authorization of use of veterinary drugs in the territory of Kazakhstan was established taking into account the period of withdrawal of the substances from the animal. Moreover, accumulation of these drugs in specific organs and tissues, wherein the minimum residue levels were allowed, was also taken into account. The package of documents submitted by the applicant for registration of veterinary drugs and feed additives contained information about the period during which the drug was eliminated from the body completely, or reduced to a level corresponding to the MRLs established for these drugs by the **EAEU** legislation. This information was confirmed by scientific research. The period of withdrawal

of the drug from the body was checked during the approbation research conducted by the competent authority. The representative of Kazakhstan further noted that withdrawal periods allowing to reach the required **EAEU** MRL for preparations containing tetracycline ranged from 7 to 15 days. Kazakhstan had allowed the use of antibiotics in feed, but only in accordance with the instruction accompanying the particular veterinary drug. She further confirmed that Kazakhstan had been following OIE recommendations for marketing authorisation.

159. [The representative of Kazakhstan confirmed that certain standards for some veterinary drugs had been harmonized with international standards by the CU Commission Decision No. 889 of 9 December 2011. Currently, the results of the previous risk assessments were being revisited within the framework of the works on harmonization of MRLs for remaining veterinary drugs. The results of the risk assessment carried out by an **EAEU member State** were published on the official websites of the national competent bodies. [The harmonization of [remaining] MRLs for veterinary drugs [[XXX] was currently in process and] would be completed by the date of Kazakhstan's accession to the WTO, unless the risk assessment justifying a [more stringent standard] [higher level of protection] has been conducted. The Working Party took note of this commitment.]]

160. As regards maximum levels for contaminants, the representative of Kazakhstan informed Members that maximum levels for nitrates in lettuce and cadmium in poppy seeds had been reviewed and revised in accordance with international recommendations and set-out in amendments to the Unified Sanitary and Epidemiological Requirements set in CU Commission Decision No. 299.

161. [Furthermore, the representative of Kazakhstan confirmed that as of the date of the accession of [Kazakhstan] [the first **EAEU member State** to the WTO], the maximum levels of nitrates would be revised in accordance with international standards, recommendations, and guidelines. The Working Party took note of this commitment.]

162. The representative of Kazakhstan stated that radio nuclide levels and microbiological standards were being revised in accordance with international recommendations. The proposals would be transmitted to the EEC **Commission** in due course to avoid inconsistency with international standards [by the date of accession of Kazakhstan to the WTO] [as of the date of the first **EAEU member State's** accession to the WTO].

163. Some Members expressed concerns about **EAEU** MRLs for tetracyclines that were much more stringent than international standards and no justification for these stringent requirements in the form of a risk assessment and scientific justification consistent with international standards and recommendations had been provided. These Members requested that Kazakhstan and other **EAEU member States** apply the Codex standards for MRLs for tetracyclines. These Members noted that some form of risk assessment had been published at http://fcrisk.ru/node/652. They had expressed concern regarding the timing and procedures followed and had commented that this assessment was not conducted in accordance with international standards. Members of

the Working Party noted that the harmonization process for MRLs of veterinary drugs should also include elimination of non-tolerance or very low tolerance in food of veterinary substances when these substances are authorised in use in the **EAEU** under similar conditions to those in place in exporting countries. Finally, these Members recalled CU Commission Decision No. 625 of 7 April 2011 on Harmonization with International Standards and CU Commission Decision No. 721 of 22 June 2011 and requested that Kazakhstan fully and implement these Decisions.

164. [The representative of the Kazakhstan confirmed that Kazakhstan, before the date of its accession to the WTO, would provide to any interested Member scientific evidence and an assessment of the risk associated with tetracyclines antibiotics residues, developed in accordance with methods of scientific evaluation set by the Codex Alimentarius, sufficient to justify the application of MRLs more stringent than those provided for in the relevant Codex standards. If such a scientific justification and risk assessment for a more stringent MRL was not provided, the MRLs for tetracyclines would be revised to correspond to Codex standards in national and **EAEU** acts as of the date of the accession of [the first **EAEU member State**] [Kazakhstan] to the WTO consistent with the provisions of the WTO SPS Agreement. The Working Party took note of this commitment.]

165. The representative of Kazakhstan replied that Kazakhstan **had conducted** a risk assessment **for MRLs on tetracycline** in accordance with international standards. The conclusion was published at http://www.npc-ses.kz/index.php?option=com_content&view=article&id=89%3A2010-11-29-09-50-15&catid=45%3A2010-11-29-05-41-50&Itemid=111&lang=ru and **http://www.nutritest.org/%D0%B4%D0%B5%D0%BD%D1%8C-2/**.

166. One Member requested Kazakhstan to confirm that, in application of Article 3.1 of the WTO SPS Agreement, Kazakhstan would review all of its existing sanitary and phytosanitary measures to ensure that, by the date of accession, they were based on international standards, guidelines and recommendations or, in the event that Kazakhstan or the **EAEU** considered that international standards did not meet its appropriate level of protection, they were scientifically justified in accordance with Article 3.3 of the WTO SPS Agreement. In cases where relevant scientific evidence was insufficient, he requested that Kazakhstan confirm that it would comply with Article 5.7 of the WTO SPS Agreement.

167. The representative of Kazakhstan confirmed that, as of the date of accession, in application of Article 3.1 of the WTO SPS Agreement, all sanitary and phytosanitary measures, whether adopted by Kazakhstan or the competent bodies of the **EAEU**, would be based on international standards, guidelines or recommendations as provided for in the WTO Agreement. Further, the representative of Kazakhstan confirmed that measures which were not based on international standards, guidelines and recommendations, where they exist, would not be applied in Kazakhstan without providing Members a scientifically based justification of the measures, in accordance with the WTO SPS Agreement, including Article 3.3. In cases where relevant scientific evidence was insufficient, he confirmed that any measure adopted, whether by Kazakhstan or the

competent bodies of the **EAEU** would comply with the WTO SPS Agreement, in particular with Article 5.7 thereof. In the event that international standards were not considered to meet the appropriate level of protection, Kazakhstan would provide scientific justification for measures applied in Kazakhstan, in accordance with Article 5.8 of the WTO SPS Agreement. The Working Party took note of these commitments.

- (ii) Risk Assessment

168. With regard to risk assessments, some Members emphasized the need, in conformity with the WTO SPS Agreement, to comply with international standards, recommendations and guidelines for conducting and reviewing risk assessments. They noted the relevance and applicability of Codex standards: CAC/GL-62-2007-Working Principles for Risk Analysis for Food Safety for Application by Governments and CAC/GL/30-1999-Principles and Guidelines for the Conduct of Microbiological Risk Assessments, and the FAO document; and WHO-EHC-240.5-Principles and Methods for the Risk Assessment of Chemicals In Food, Chapter 2 - Risk Assessment and its Role in Risk Analysis. In the view of these Members, a risk assessment should be limited to an examination of the measure already in place or favoured by the importing country. It should not be distorted by preconceived views on the nature and the content of the measure to be taken, nor should it develop into an exercise tailored to and carried out for the purpose of justifying decisions *ex post facto*.

169. In the view of these Members, the conduct of a risk assessment, whether for a biological, chemical, or physical food safety hazard, was one part of a broader effort to describe the relevance and understanding of scientific-based decisions. The analysis of risk allowed regulatory officials to focus finite resources on those hazards that posed the greatest risk to human health protection. Risk assessment provided a framework for evaluating food safety hazards relevant to the national context, predicting the likelihood of exposure to those hazards, and estimating the resulting public health impact associated with a wide variety of variables. Experts involved in risk assessment, including government officials and subject matter experts from outside government must be objective in their scientific work and not be subject to any conflict of interest that may compromise the integrity of the assessment. These experts should be selected in a transparent manner on the basis of their expertise and their independence with regard to the interests involved, including disclosure of conflicts of interest in connection with risk assessment. Elements of an effective assessment and analysis of that assessment needed to include a public process for seeking input on the design of the risk assessment, documentation of those decisions, and then ensuring that the public has access to the documentation. A peer review process whereby subject matter experts provide critical analysis of the design features and the assumption made was recommended. Such contributions through the peer review and public process could improve transparency, increase the quality of the analysis, and facilitate risk communication by increasing the credibility and acceptance of the results. There needed to be a formal record of all decisions associated with the risk assessment and which would be made available to interested independent parties so that other risk assessors could repeat and critique the work. The formal record and summary should indicate any constraints, uncertainties, assumptions, and their impact on the risk assessment.

Members expressed concerns that certain norms and certain SPS measures applied to imports into the **EAEU** territory and into the Republic of Kazakhstan were not in line with international standards, guidelines and recommendations, and were not based on a risk assessment carried out based on the internationally recognised principles and recommendations described above. These Members sought assurances from Kazakhstan that these internationally recognised principles and recommendations would be used in conducting risk assessments for SPS measures applicable to imports into the Republic of Kazakhstan.

170. Kazakhstan confirmed that principles and recommendation developed by the relevant international organizations described in paragraphs [168] and [169] were used in conducting risk assessment for SPS measures applicable to imports in the Republic of Kazakhstan. The representative of Kazakhstan further explained that the Commission had adopted a Decision "On Equivalence of Sanitary, Veterinary, or Phytosanitary Measures and Conduct of Risk Assessment, CU Commission Decision No. 835 of 18 October 2011 (hereinafter - "Decision on Equivalence and Risk Assessment"). Under this Decision, **EAEU member States** were required, consistent with Article 5 of the WTO SPS Agreement, to ensure that sanitary, veterinary, or phytosanitary measures were based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations, including Codex, OIE, and the IPPC. She further explained that the **EAEU** requirements for conducting risk assessments corresponded to the provisions of Article 5 of the WTO SPS Agreement, including a requirement that, as provided in Article 5.3 of the WTO SPS Agreement, in assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary, veterinary or phytosanitary protection from such risk, the **EAEU member States** would take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease, the costs of control or eradication in the territory of the **member States**, and the relative cost-effectiveness of alternative approaches to limiting risks.

171. Some Members of the Working Party noted the requirement applied to certain goods on the Common List of Goods Subject to Veterinary Control that imports come from establishments on the Registry, as described in paragraph [53]. These Members expressed concern that applying this requirement to certain of the products on the Common List of Goods Subject to Veterinary Control was not based on science or a risk assessment. In addition, there could also be a requirement for an establishment to be included in the Register prior to being permitted to export products to the territory of the **EAEU** where a veterinary certificate, import permit and State Registration which appeared to be more trade restrictive than required to achieve the appropriate level of protection of the **EAEU**. Moreover, these Members recalled their concerns about the absence of risk assessments and science to justify measures maintained by the **EAEU** and Kazakhstan that were more stringent than international standards, guidelines, and recommendations.

172. In response to the request of a Member to provide information on the risk assessment bodies involved in evaluation of risk, the representative of Kazakhstan listed the following institutions:

1) in the sphere of veterinary:

- Kazakh Scientific Research veterinary Institute;
- Republican veterinary laboratory;
- National reference Center in veterinary;
- KazAgroInnovation; and
- Scientific Research Institute for Biological Safety Problems.

2) in the sphere of phytosanitary:

- **Kazakh** Scientific Institute of Plant Protection and Quarantine;
- Republican Plant Quarantine Laboratory;
- Republican Methodological Center of Phytosanitary Diagnostics and Prognosis; and
- state enterprise "Phytosanitary".

3) in the sphere of food safety:

- National Scientific and Practical Centre of Sanitary and Epidemiological Expertise and Monitoring;
- Kazakh Food Academy; and
- Kazakh Scientific Center for Hygiene and Epidemiology.

173. A Member asked for confirmation that risk assessment is carried out prior to the introduction of a restriction on imports into the **EAEU**/Kazakhstan and that Kazakhstan/the **EAEU** will provide this risk assessment to the exporting country affected by the restrictions upon request. In reply, the representative of Kazakhstan said that pursuant to **paragraph 1 of** Article **56 of the EAEU Treaty**, SPS measures were developed and applied on the basis of scientific justification and **only to the extent necessary to protect human, animal and plant life and health**. Pursuant to paragraph 2, Article 26-1 of the Law "On Veterinary", veterinary measures had to be based on scientific justification, objective risk assessment or international standards. The representative confirmed that risk assessment was conducted prior to implementation of introduction of restriction to imports and would provide the results of risk assessment upon request of exporting country, as provided for in the WTO Agreement.

174. [The representative of Kazakhstan confirmed that, as of the date of accession of [the first **EAEU member State** to the WTO] [Kazakhstan], goods would be included on the Common List of Goods Subject to Veterinary Control in Kazakhstan only if application of veterinary measures was in compliance with international standards, guidelines and recommendations, or if science and a risk assessment justified, consistent with the WTO SPS Agreement, subjecting a category of goods to veterinary measures. Similarly, the veterinary measures applied to each category of goods would also be in compliance with international standards, recommendations and guidelines or based on science and a risk assessment. Furthermore, the representative confirmed that Kazakhstan would remove products from the List of Goods Subject to Veterinary Control by the date of [its accession to the WTO] [the accession of the first **EAEU member State** to the WTO], if a risk assessment or scientific justification had not been provided. Moreover, the representative of

Kazakhstan confirmed that risk assessments would be conducted [in accordance with] [taking into account] the [methods] [techniques] of scientific evaluation set by the Codex Alimentarius. The Working Party took note of these commitments.]

175. [The representative of Kazakhstan confirmed that, as of the date of its accession to the WTO, **EAEU** and Kazakh SPS measures would be based on an assessment, as appropriate to the circumstances, of the risk to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations, [as provided for in the Article 5 of the SPS Agreement]. She further confirmed that these assessments would [take into account][follow] the standards guidelines and recommendations of Codex, OIE and IPPC, in particular: Codex Guidelines on Working Principles for Risk Analysis for Food Safety for Application by Governments (CAC/GL 62-2007); **c**hapter 2.1 on Import Risk Analysis of the OIE Terrestrial Animal Health Code; chapter 2.2 on Import Risk Analysis of the OIE Aquatic Animal Health Code; ISPM No. 2 "Framework for Pest Risk Analysis", ISPM No. 11, 21. [Furthermore, Kazakhstan would take into account the categories of commodities according to their pest risk established by ISPM 32]. The Working Party took note of these commitments.]

- (iii) Regionalization

176. The representative of Kazakhstan explained that Kazakh officials widely used the principle of regionalization, as defined in the WTO SPS Agreement, when deciding to take a measure. The Common Veterinary Requirements (each chapter) adopted by the CU Commission Decision No. 317 of 18 June 2010 stipulated that the regionalization principle was recognised. The procedures for carrying out regionalization in the sphere of applying veterinary measures were in accordance with the OIE Code (Chapter 4.3. OIE, 2011). Kazakh legislation in the plant quarantine sphere was based on IPPC provisions and international standards on phytosanitary measures. Accordingly, regionalization applied to all imported regulated products. Phytosanitary certificates were issued in the exporting country by agencies of the official National Plant Protection Organization. Regional characteristics were a factor for the purposes of devising phytosanitary measures for use in a particular region.

177. The representative of Kazakhstan added that procedures for carrying out regionalization in the sphere of applying veterinary measures were in accordance with the OIE Code. The compliance of veterinary measures with OIE standards was accomplished through Common Veterinary Requirements and the Law No. 339-II "On Veterinary" of 10 July 2002.

178. She further stated that the principle of regionalization was applied in full accordance with provisions of IPPC and ISPM Nos. 1, 4, 10, 14, and 29. This had to be respected, including in the formulation of veterinary and phytosanitary certificates.

- (iv) Equivalence

179. The representative of Kazakhstan explained that the appropriate level of protection was determined by the **EAEU** bodies with regard to sanitary and veterinary measures and by each

EAEU member State on the national level with regard to phytosanitary measures, and were reflected in technical regulations for products produced on the territory of the **EAEU** and individual **EAEU member States**, respectively. Furthermore, the representative recalled that the CU Commission had adopted CU Commission Decision No. 835 of 18 October 2011 "On Equivalence and Risk Assessment", which provided:

- for **EAEU member States** to recognise equivalence if an exporting country objectively demonstrated that its measures achieved the appropriate level of sanitary or veterinary protection of the **EAEU** or the appropriate level of phytosanitary protection of an individual **EAEU member State**;
- the procedure to follow as regards consultations with the exporting country(ies) and relevant information to be provided by the exporting country(ies);
- procedural and substantive requirements as regards the judgement on recognition of equivalence; and
- the possibility of inspection, testing or audit in the exporting country(ies) upon a request by the **EAEU member States**.

180. In addition, under the CU Commission Decision "On Equivalence and Risk Assessment", **EAEU member States** committed to apply the same approach to requests for national recognition of equivalence in the phytosanitary field addressed to individual **EAEU member States**. She also noted that the CU Commission Decision "On Equivalence and Risk Assessment" provided for the possibility for exporting countries to request equivalence recognition by the **EAEU** or its **member States** (depending on respective competences) of their control or inspection systems. She explained that CU Commission Decision No. 835 of 18 October 2011 "On Equivalence and Risk Assessment", and procedures necessary to apply this Decision have been adopted by EEC Collegium Decision No. **17** of **11 February 2014**. The representative of Kazakhstan stated that, the CU Decision "On Equivalence and Risk Assessment" foresaw the following procedure:

- submission of a request for equivalence recognition to a competent authority of **an EAEU member State**, including, *inter alia*, information on the type and scope of equivalence agreement requested, description of product(s), measure(s) or system(s) of control and inspections concerned, an evaluation of how the measure(s) or system(s) of the exporting country achieved the appropriate level of protection of the **EAEU** or **an EAEU member State**, and information on the feasibility and performance of the measure(s);
- interactions between the **EAEU member State** and the exporting country in the context of the determination of equivalence;
- prior to taking a decision on equivalence, the **EAEU member State** would, upon request, provide to the requesting exporting country an explanation of the **EAEU**'s or its level of protection; and
- notification by the Commission or **an EAEU member State** to the exporting country of its judgement as regards recognition of equivalence in a timely manner and with appropriate explanation where it was found that the measure was not equivalent.

181. Furthermore, the representative of Kazakhstan specified that, in applying this Commission Decision, **the EAEU member States** would follow international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention. Members noted that, as set-out in the Decision of the WTO SPS Committee, the importing Member had certain responsibilities: to provide an explanation of the objective and rationale of the sanitary or phytosanitary measure and identify clearly the risks that the relevant

measure intended to address. Moreover, the importing Member should indicate the appropriate level of protection which its sanitary or phytosanitary measure was designed to achieve and should provide a copy of the risk assessment on which the sanitary or phytosanitary measure was based. As stated in the WTO Committee Decision, an importing Member was to consider the relevant information and experience that the sanitary and phytosanitary services had on the measure(s) for which recognition of equivalence was requested. A key element for consideration was the historic knowledge and confidence that the competent authority of the importing Member had of the competent authority of the exporting Member.

182. The representative of Kazakhstan confirmed that Kazakhstan, from the date of its accession to the WTO, would ensure compliance with Article 4 of the WTO SPS Agreement. He further confirmed that, as provided for in Article 4 of the WTO SPS Agreement, sanitary, veterinary, and phytosanitary measures of other Members, even when they were different from measures of the Kazakhstan or the **EAEU**, would be accepted as equivalent, if the exporting country objectively demonstrated that its measures achieved the appropriate level of SPS protection applied in Kazakhstan. The representative also confirmed that, as of the date of accession of Kazakhstan to the WTO, procedures for recognition and determination of equivalence, consistent with the WTO SPS Agreement, including Article 4 thereof, whether applied by Kazakhstan or competent bodies of the **EAEU**, would be based on relevant international standards, guidelines and recommendations, namely the Decision of the WTO SPS Committee (G/SPS/19/Rev.2), Codex Guidelines on the Judgment of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems (CAC/GL 53-2003), Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems (CAC/GL 34-1999); Chapter 5.3 of the OIE Terrestrial Animal Health Code "OIE Procedures Relevant to the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization" and ISPM No. 24 "Guidelines for the Determination and Recognition of Equivalence of Phytosanitary Measures". The Working Party took note of these commitments.

- (v) Non-discrimination

183. Some Members also requested clarification of whether SPS measures applied in Kazakhstan established similar treatment for domestic and foreign like products. The representative of Kazakhstan stated that, in her view, non-discriminatory treatment was provided by the current legislation of Kazakhstan and **EAEU** Agreements, Commission Decisions, and other **EAEU** Acts. **EAEU** Agreements, Commission Decisions and other **EAEU** Acts did not set-out separate SPS measures for imported goods. Sanitary-epidemiological, veterinary and phytosanitary rules, criteria, measures and requirements were applied uniformly and without discrimination to all foreign, **EAEU**, and domestic products and suppliers. She stated that SPS requirements were implemented with respect to goods originating from foreign countries in the same way, they were applied in respect of similar products of Kazakh origin. **EAEU** Agreements, Commission Decisions, and other **EAEU** Acts, as well as the current legislation of Kazakhstan in the veterinary/sanitary sphere (Article 23 of the Law of Republic of Kazakhstan "On Veterinary")

were uniform and established identical requirements for both foreign, **EAEU**, and domestic goods and manufacturers, including requirements for putting products on the domestic market. Finally, phytosanitary requirements applied to regulated products originating from a foreign country in the same manner as they applied to the same regulated products of Kazakh origin.

184. Non-discrimination principle was ensured in paragraphs 133, 142 and 153 of the Regulation on Joint Inspections stipulating the same requirements to the laboratory testing of imported and domestic products.

185. The representative of Kazakhstan confirmed that all SPS measures developed and applied in Kazakhstan, whether by Kazakhstan or competent bodies of the **EAEU**, would comply with the non-discrimination provisions of the WTO SPS Agreement, including those relating to the principles of national and most-favoured-nation treatment. The Working Party took note of this commitment.

(h) Transparency, Notification and Enquiry Point Obligations

186. With regard to the transparency requirements of the SPS Agreement, the representative of Kazakhstan said that a single TBT/SPS enquiry point had been in operation since July 2005. The enquiry point notified WTO Members of SPS measures in effect, as well as on measures that were still in preparation. The enquiry point, upon receipt of notifications from the WTO Secretariat, EurAsEC member **State, EAEU member States** and other international organizations, published them quarterly in the official publication of the authorised body (Bulletin of the Enquiry Point) and monthly in the common information system (www.memst.kz or www.wto.memst.kz). Notifications would be prepared in accordance with the "Rules and Procedures for Preparation of Notifications on Pending (Being Adopted) Technical Regulations and Standards". These rules had been developed in line with the notification provisions of the SPS and TBT Agreements and ensured that notifications took place at an early stage when comments could be taken into account and prior to the adoption and enforcement of these proposed regulations. The enquiry point could be contacted at:

Address: Orynbor, 11
Left Bank
010000 Astana
Republic of Kazakhstan

Telephone: +(771) 7222 6482
Tel/fax: +(771) 7220 5640
E-mail: **enquirypoint@mail.ru**
Website: **www.wto.memst.kz**

187. A Working Party Member asked the representative of Kazakhstan to clarify as to whether the phrase "get familiar with intention" in paragraph 2.3 of the Rules of Completion and Submission of WTO Notifications included the opportunity to comment. The representative of Kazakhstan replied that in general, the scope of the Rules is only the methodology of filing of SPS notifications. The possibility to comment was provided in the Government Resolution No. 718 of 11 July 2005 as last amended in September 2010. In particular, paragraph 11 provided that the Enquiry Point, upon request of the WTO Secretariat, EurAsEC members and other international

organizations had to present information (clarifications), standards, conformity assessment procedures, and other SPS measures.

188. This Member, with regard to provision 2.8 and the Order included in the Annexes, noted that the Order was very similar to the notification format used for notifications under the SPS and TBT Agreements; however, there were some differences. For instance, the Order did not include a section for the comment deadline. In this regard, this Member enquired why Kazakhstan developed its own format instead of using the formats developed by the SPS and TBT Committees. In reply, the representative of Kazakhstan said that the mentioned notification format was related to notifications on emergency measures in technical regulations, SPS measures, or amendments to them. The purpose of such notifications was to inform interested WTO Members about urgent measures, implemented in order to protect human and animal life and health, ensure plant and/or environment protection. She emphasised that emergency notification forms developed by the WTO SPS and TBT Committees do not have a section for comment deadline. The regular notification format – also included in Annex 1 of the Rules of Completion and Submission – contained the section for the comment deadline.

189. As regards emergency measures, the representative of Kazakhstan confirmed that Kazakhstan would comply with point 6 of Annex B to the WTO SPS Agreement.

190. This Member commented that with regards to the operation of the enquiry point, one of the issues discussed by WTO Members in the Committee was the importance of inter-agency coordination. The enquiry point for both SPS and TBT was established in the Committee on Technical Regulation and Metrology of the Ministry of **Investments and Development** (MEMST). In this regard, this Working Party Member asked how MEMST would coordinate with other agencies involved in developing SPS measures.

191. The representative of Kazakhstan stated that the SPS/TBT enquiry point was established by the Government Resolution No. 718 of 11 July 2005, which authorised the Enquiry Point to coordinate **with** the **Ministry of** Agriculture and **the Committee of Consumer Rights Protection** on the issues of SPS notifications, including responding comments from WTO Members. Pursuant to this Resolution, Government agencies (including the Ministry of Agriculture and **the Committee of Consumer Rights Protection**) provided appropriate information to the enquiry point within two days after the adoption and application of TBT and SPS measures in order to send such information to the WTO Secretariat, EurAsEC member **State, EAEU member States** and other international organizations.

192. A Member asked Kazakhstan to describe in details the steps that would take place for SPS notification of draft EEC texts, both for the notification and for the consideration of the comments received. In reply, the representative of Kazakhstan explained that Kazakhstan would notify WTO Members on EEC SPS measures once the first draft of the SPS document was approved by the working group and then by the Consultative Committee for public consultation. Thus, Kazakhstan's SPS/TBT Enquiry Point would send notification to the WTO approximately at

the same time when the draft SPS document would be published for public consultation by the EEC. This would allow **EAEU member States** to synchronize the process of receiving comments through both mechanisms. Moreover, after Kazakhstan's accession to the WTO, its enquiry point would coordinate the notification process with the Russian Federation's notification authority in order to ensure that similar dates for comments were established for the notifications of the same draft document. She clarified that the 60 day**s** comment period through WTO notification would be provided even if the EEC public comment period was closed. Contact point for sending feedback to the notified EEC document would be indicated in the notification and it could be either the SPS/TBT enquiry point, or the EEC, or both. The SPS/TBT Enquiry Point would forward comments and proposals received from WTO Members to the relevant authorized body of Kazakhstan, which, in turn, would forward them to the EEC. She further explained that the received comments and proposals would be considered at the EEC working group meeting. In accordance with Decision No. 31 the Department of the Sanitary, Phytosanitary and Veterinary Measures within 30 days after expiration of the public consultation period had to compile a summary table of comments received under the public consultation and under the WTO SPS notification channels, and answers to these comments, and publish it on the official EEC website. In addition, the enquiry point would provide answers to WTO Member's comments provided in the context of the SPS notifications.

193. She added that, pursuant to Government Resolution No. 1627 of 30 October 2000, the Ministry of Agriculture had established an Information Marketing System to enhance transparency through regular exchange of analytical marketing information between agricultural producers, public bodies, and other participants on the agricultural market; and through enhanced interaction with international organizations. All relevant drafts, amended and final SPS and (agriculture-related) TBT regulations and rules were available from the Ministry's website, www.minagri.gov.kz as well as from www.memst.kz. All interested parties could send questions and comments to the Ministry at strategy@minagri.kz. The enquiry point also published a quarterly bulletin of all draft amended and final SPS measures. The Ministry of Agriculture issued an analytical bulletin "Agroinform", which contained all legal acts, approved by the Ministry of Agriculture, including legislation on veterinary, quarantine and plant protection. In addition, the State sanitary and epidemiological control system maintained a regularly updated database on the incidence of infectious diseases and on the results of random laboratory tests of drinking water and food products. This information was available to all interested parties.

194. In response to a question from a Member regarding the existence of a process for public participation in the development of rules and regulations, she said that Law No. 124-III "On Private Entrepreneurship" of 31 January 2006 provided for the participation of the private sector in the development of regulatory acts that would affect the interests of private entrepreneurs. In her view, the provisions of this law ensured that the public could put forward proposals for the consideration of the relevant authorised body. Besides, in accordance with the above-mentioned law, a draft law had to be examined by accredited Business Associations. In response to specific questions, the representative of Kazakhstan replied that Kazakhstan's legislation contained no restrictions on foreign participation in the development of sanitary and

phytosanitary standards (e.g. participation in technical committees meetings, providing comments). Proposals and comments should be submitted through the enquiry point. Furthermore, the EEC Collegium Decision No. 161 of 18 September 2012, which replaced the Customs Union Commission Decision No. 319 as amended by CU Commission No. 625 of 7 April 2011, provided for publication of **EAEU** draft SPS measures with a public comment period of at least 60 days. Within this period, any interested party could submit its comments on the drafts. The representative of Kazakhstan further explained that according to Article 8 of the Annex to EEC Council Decision No. 48 of 20 June 2012, which set a procedure for the development, adoption, amendment and repealing of technical regulations of the **EAEU**, draft technical regulations must be published on the EEC website and should be available for public consultation for at least two months. Comments received from interested parties would then be taken into account to amend the draft technical regulations.

195. Members noted that many comments on draft technical regulations had been provided to the **EAEU member States** and institutions through the public consultation mechanism. Members were concerned that few of the submitted comments had resulted in modifications to the final adopted technical regulations, even in cases where the comments noted discrepancies with international standards or suggested alternative approaches more aligned with the international standards and facilitating trade. These Members therefore sought assurances that meaningful consideration would be given to comments and that the mechanisms provided by CU Commission Decision No. 625 for aligning with international standards would be fully implemented.

196. The representative of Kazakhstan said that EEC **Council** Decision No. 48 of 20 June 2012 had approved a new Regulation on Development, Adoption, Amending and Cancellation of Technical Regulations of the Customs Union. Pursuant to the Decision, a table of comments and proposals resulting from public consultation with corresponding answers was published on the **EAEU** official website. EEC Collegium Decision No. 31 of 5 March 2013 provided for similar procedures for SPS measures, namely, the publication of summary table of comments and answers on the **EAEU** official website. She further clarified that the mechanism of aligning **EAEU** SPS measures with international standards provided by CU Commission Decision No. 625, had been established in EEC Collegium Decision No. 212 of 6 November 2012 "On Regulation on the Uniform Procedure of Carrying Out Examination of Legal Acts of the Customs Union in the Sphere of Implementation of Sanitary, Veterinary and Phytosanitary Measures", which had replaced CU Commission Decision No. 801 of 23 September 2011.

197. In reply to a Members' question Kazakhstan confirmed that it would follow SPS Committee Recommended procedures for implementing the transparency obligations of the SPS Agreement G/SPS/7/Rev.3.

198. [The representative of Kazakhstan confirmed that Kazakhstan would notify [draft SPS measures applicable to imports into Kazakhstan] to the WTO SPS Committee, [including **EAEU** and EurAsEC documents related to SPS measures] [including **EAEU** and EurAsEC SPS measures] [,following the principles of the SPS Committee Recommended procedures for implementation of

the transparency provisions of the SPS Agreement G/SPS/7/Rev.3,] [as provided for in the SPS Agreement]. SPS measures, including those relating to inspection, were published in publications, such as those mentioned in paragraph [193]. Information on all proposed SPS measures and those in effect, as foreseen in Annex B of the WTO SPS Agreement, could also be obtained from the SPS notification authority or from Kazakhstan's SPS enquiry point. The Working Party took note of these commitments.]

(i) Proportionality, Necessity, and Reasonableness

199. Some Members of the Working Party expressed concern that SPS measures applied by Kazakhstan and other **EAEU member States** to exports to Kazakhstan were not always proportionate to the risk identified. These Members gave the following examples of measures that were disproportionate or otherwise inconsistent with international rules:

- the list of goods subject to veterinary control included goods that did not represent a veterinary or sanitary risk which would justify submitting these goods to requirements for listing establishments on the Common Register, State Registration, import permits, and veterinary certificate requirements;
- imposition of trade restrictive measures, such as suspension of establishments or mandatory pre-export testing, were not reviewed and eliminated after food safety standards had been harmonized with international standards or when steps had been taken to address food safety issues;
- inspectors requesting exporting establishments to show the results of monitoring of residues of veterinary medicinal products in processed products in addition to the monitoring carried out on the raw materials;
- **EAEU member States** not using residue monitoring plans as a tool to manage the risk of exposure, as foreseen in Codex guidelines, but requesting pre-export tests;
- **EAEU member States** requesting systematic inspections of plant nurseries before allowing export to Kazakhstan of plants for planting, in absence of basis foreseen by the IPPC to have such preliminary inspection; and
- overly detailed and unnecessary requirements of inspectors during inspections.

These Members recalled that the principles of proportionality, necessity and reasonableness were enshrined in a number of Articles of the WTO SPS Agreement, such as Articles 2.1, 2.2, 5.3, 5.4, 5.6 and Annex C thereof, and that, in their view, Kazakhstan should also modify its practices to make them more proportionate to the risks and reasonable.

200. In response to these concerns, the representative of Kazakhstan confirmed that all SPS measures, whether adopted by Kazakhstan or the competent bodies of the **EAEU**, would be applied in conformity with the WTO SPS Agreement. In particular these SPS measures would be applied only to the extent necessary to protect human, animal or plant life or health and would be not more trade restrictive than required to achieve the appropriate level of sanitary or phytosanitary protection of the **EAEU** and Kazakhstan. Finally, when determining the appropriate level of sanitary, veterinary, or phytosanitary protection, Kazakhstan or the competent bodies of the **EAEU**, would take into account the objective to minimize negative trade effects in accordance with the WTO SPS Agreement. The Working Party took note of these commitments.

(j) Conclusion

201. The representative of Kazakhstan confirmed that, from the date of accession of Kazakhstan to the WTO, all SPS measures would be developed, whether by Kazakhstan or the competent bodies of the **EAEU**, and applied in Kazakhstan in accordance with the WTO Agreement and in particular, the WTO SPS Agreement. In particular, SPS measures would be applied only to the extent necessary to protect human, animal, or plant life or health; would be based on scientific principles and, where they exist, on international standards, guidelines, and recommendations; and, would not be more trade restrictive than required to achieve the appropriate level of protection applied in Kazakhstan. SPS measures would not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between the territory of Kazakhstan and that of other Members. SPS measures would not be applied in a manner, which would constitute a disguised restriction on international trade, and would not be maintained without sufficient scientific evidence, except as provided for in Article 5.7 of the WTO SPS Agreement. The Working Party took note of these commitments.

Table [...] - List of Goods Subject to Veterinary Control

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
Measures applied upon accession of the Republic of Kazakhstan to the World Trade Organization					
1	0101	Live horses, asses, mules and hinnies	veterinary certificate or veterinary passport (**for** sport horses)	yes	no
2	0102	Live **cattle**	veterinary certificate	**y**es	**n**o
3	0103	Live pigs	veterinary certificate	**y**es	**n**o
4	0104	Live sheep and goats	veterinary certificate	**y**es	**n**o
5	0105	Live poultry, i.e fowls (Gallus domesticus), ducks, geese, turkeys and guinea fowls	veterinary certificate	**y**es	**n**o
6	0106	Live animals, except those specified in positions 1 - 5 of the present list	veterinary certificate or veterinary passport (for dogs and cats imported for personal use in **the quantity** no more than 2 heads)	Yes, except for dogs and cats imported for personal use in **the quantity** no more than **2** heads	no
7	0201	Meat of **cattle**, fresh or cooled	veterinary certificate	yes	yes
8	0202	Meat of **cattle**, frozen	veterinary certificate	yes	yes
9	0203	**Pork** fresh, cooled or frozen	veterinary certificate	yes	yes
10	0204	Lamb or chevon fresh, cooled or frozen	veterinary certificate	yes	yes
11	0205 00	Meat of horses, asses, mules or hinnies, fresh, cooled or frozen	veterinary certificate	yes	yes
12	0206	Edible offal of **cattle, pigs, sheep**, goats, horses, asses, mules or hinnies, fresh, cooled or frozen	veterinary certificate	yes	yes
13	0207	Meat and edible offal of poultry specified in position 5 of present list, fresh, cooled or frozen	veterinary certificate	yes	yes
14	0208	Others meat and edible offal, fresh, chilled or frozen, except specified in positions 7 – 13 of the present list	veterinary certificate	yes	yes
15	0209	Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, fresh, chilled, frozen, salted[1], in brine[1], dried[1] or smoked[1]	veterinary certificate	yes	yes
16	0210	Meat and edible meat offal, salted[1], in brine[1], dried[1] or smoked[1]; edible flours of meat or meat offal	veterinary certificate	yes	yes
17	from 0301	**Live fish intended for human consumption**	veterinary certificate	yes	yes

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
18	from 0301	Live fish intended for breeding in decorative purposes, including aquarium fish, and not intended for human consumption	veterinary certificate	yes	**Inclusion in the registry is not required**, but the import permit and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
19	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat specified in position 21 of present list	veterinary certificate	yes	yes
20	0303	Fish, frozen, excluding fish fillets and other fish meat specified in position 21 of present list	veterinary certificate	yes	yes
21	0304	Fish fillets and other fish meat (including minced), fresh, cooled or frozen	veterinary certificate	yes	yes
22	0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process[1]; flours, meals and pellets of fish, fit for human consumption[1]	veterinary certificate	yes	yes
23	0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried [1], salted[1] or in brine[1]; smoked crustaceans, whether in shell or not, whether or not cooked before or during the smoking process [1]; crustaceans, in shell, cooked by steaming[1] or by boiling[1] in water, whether or not chilled, frozen, dried[1], salted[1] or in brine[1]; flours, meals and pellets of crustaceans, fit for human consumption[1]	veterinary certificate	yes	yes
24	0307	Mollusks, whether in shell or not, live, fresh, chilled, frozen, dried[1], salted[1] or in brine[1]; smoked mollusks, whether in shell or not, whether or not cooked before or during the smoking process[1]; flours, meals and pellets of mollusks, fit for human consumption[1]	veterinary certificate	yes	yes
25	0308	Aquatic invertebrates other than crustaceans and mollusks, live, fresh, chilled, frozen, dried[1], salted[1] or in brine[1]; aquatic invertebrates other than crustaceans and mollusks, smoked, whether or not cooked before or during smoking process[1]; flours, meals and pellets of aquatic invertebrates other than crustaceans and mollusks, fit for human consumption[1]	veterinary certificate	yes	yes

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
26	from 0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter (except raw milk and raw cream)	veterinary certificate	yes	The measure **applies** to goods imported from third **countries into** the territory of the Republic of Belarus. In respect of goods imported **from third countries** to the territory of **the Republic of Kazakhstan and** the Russian Federation, inclusion **in the registry** is not required, but the import permit **and veterinary certificate** should include **number** and (or) name of the **company** that **issued** controlled goods into circulation
27	from 0401	Raw milk and raw cream	veterinary certificate	yes	yes
28	0402	Milk and cream, concentrated or containing added sugar or other sweetening matter [1]	veterinary certificate	yes	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of **the Republic of Kazakhstan and the** Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate **should include** number and (or) name of the company that **issued controlled goods** into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
29	0403	Buttermilk, curdled milk and cream, yogurt, kefir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavored or containing added fruit, nuts or cocoa[1]	veterinary certificate	yes	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of **the Republic of Kazakhstan and the** Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate **should include** number and (or) name of the company that **issued controlled goods** into circulation
30	0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter[1]	veterinary certificate	yes	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of **the Republic of Kazakhstan and the** Russian Federation, inclusion in the registry is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued controlled goods** into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
31	0405	Butter and others fats and oils derived from milk[1]; dairy spreads[1]	veterinary certificate	yes	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of **the Republic of Kazakhstan and the** Russian Federation, inclusion in the registry is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued controlled goods** into circulation
32	from 0406	Cheese and curd[1] other than processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of group 04 **EAEU** HS or any combination of these products[2]	veterinary certificate	yes	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of **the Republic of Kazakhstan and the** Russian Federation, inclusion in the registry is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued controlled goods** into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
33	from 0406	Processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of group 04 **EAEU** HS or any combination of these products[2]	veterinary certificate – for goods, imported **to** the territory of the Republic of Belarus, for goods imported to the territory of **the Republic of Kazakhstan and the** Russian Federation, – veterinary certificate (except for **products** containing less than 50% components of animal origin)	The measure applies to goods imported into the territory of the Republic of Belarus	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of **the Republic of Kazakhstan and the** Russian Federation, inclusion **into** the register is required, if **company** – manufacturer of sausage, meat, meat by-products, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or products of group 04 of **EAEU** HS Code or any combination of these products is not included **in the registry**
34	0407	Birds' eggs, in shell, fresh, preserved[1] or cooked[1]	veterinary certificate	yes	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of **the Republic of Kazakhstan and the** Russian Federation, inclusion **into the** register **is** required only for processed egg products

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
35	0408	Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming[1] or by boiling[1] in water, molded[1], frozen or otherwise preserved[1], whether or not containing added sugar or other sweetening matter	veterinary certificate	yes	yes
36	0409 00 000 0	Natural honey	veterinary certificate	The measure applies to goods imported into the territory of the Republic of Belarus	no
37	0410 00 000 0	Food products of animal origin, not elsewhere specified or included	veterinary certificate	yes	no
38	0502	Pork or boar bristle, badger or other bristle used for brush making; their wastes	veterinary certificate	yes	no
39	0504 00 000 0	intestines, bladders and stomachs of animals (other than fish), whole and lumped, fresh, chilled, frozen, salted, in brine, dried or smoked	veterinary certificate	yes	The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory **of the Republic of Kazakhstan and the** Russian Federation, inclusion **in the registry** is not required, but the import permit and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
40	0505	Hides and other parts of birds with feathers or down, feathers, parts of feathers (with trimmed or not trimmed edges) and down, cleaned, disinfected or treated for preservation, but not exposed to further processing; powder and wastes of feathers or parts thereof	veterinary certificate	yes	no
41	0506	Bones and horn pith, unprocessed, defatted, exposed to primary processing (without shaping), treated with acid or de-gelled; powder and wastes thereof	veterinary certificate	yes	no

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
42	from 0507	Ivory, tortoise shell, bone of a whale or other marine mammals, horns, antlers, hooves, nails, claws and beaks, unprocessed or exposed to primary processing (without shaping); powder and wastes thereof	veterinary certificate	yes	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
43	0510 00 000 0	Ambergris, castor, civet and musk; Spanish fly; bile, including dried; glands and other products of original origin used in the manufacture of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved for short-term storage	veterinary certificate	yes	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
44	0511	Products of animal origin, not included in other **EAEU** HS positions; dead animals of group 01 **EAEU** HS or 03 **EAEU** HS, unfit for human consumption	veterinary certificate	yes	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
45	0511 99 859 2	Horsehair and wastes thereof, including in the form of wadding with or without substrate	veterinary certificate	yes	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
46	from 0511, from 9601, from 9705 00 000 0	Hunter's trophies, stuffed animals, including exposed to taxidermy treatment or preserved	veterinary certificate (only for **untreated (canned) hunting** trophies)	**No - for those past complete** taxidermy treatment	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate (if **necessary) should include** the name of **taxidermist** workshop **where** primary processing of trophies **was performed, or hunting entity**
47	from 1001 19 000 0	Hard wheat (only forage grain) [3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
48	from 1001 99 000 0	Soft wheat (only forage grain) [3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
49	from 1002 90 000 0	Rye (only forage grain) [3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
50	from 1003 90 000 0	Barley (only forage grain) [3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
51	from 1004 90 000 0	Oat (only forage grain) [3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
52	from 1005 90 000 0	Corn (only forage grain) [3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
53	from 1201 90 000 0	Soybeans (only forage grain) [3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
54	from 1208	flours, meals and pellets of oil seeds (except mustard seeds) intended for feeding animals[3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
55	from 1211	Plants and parts thereof (including seeds and fruits), used in veterinary, fresh or dried, whole or milled, crushed[3]	veterinary certificate – **upon declaration** the use of veterinary **products**, including animal feed	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
56	from 1212 99 950 0	Bee bread, pollen	veterinary certificate	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
57	1213 00 000 0	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets[3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
58	1214	Rutabagas, leaf beat (mangold), fodder roots, hay, alfalfa (lucerne), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets[3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
59	from 1301 90 000 0	Propolis	veterinary certificate	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
60	1501	Pig fat (including lard) and poultry fat, other than that of position 15 and 62	veterinary certificate – only for controlled **products** of animal origin intended for **food** and feed purposes and not **subjected** to disinfection treatment	yes	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
61	1502	Fats of bovine animals, sheep or goats, other than those of position 62	veterinary certificate – only for controlled **products** of animal origin intended for **food** and feed purposes and not **subjected** to disinfection treatment	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
62	1503 00	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared	veterinary certificate – only for controlled **products** of animal origin intended for **food** and feed purposes and not **subjected** to disinfection treatment	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
63	1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified	veterinary certificate – only for controlled **products** of animal origin intended for **food** and feed purposes and not **subjected** to disinfection treatment	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
64	1505 00	Grease and fatty substances derived therefrom (including lanolin)	veterinary certificate – only for controlled **products** of animal origin intended for **food** and feed purposes and not **subjected** to disinfection treatment	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
65	1506 00 000 0	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified	veterinary certificate – only for controlled **products** of animal origin intended for **food** and feed purposes and not **subjected** to disinfection treatment	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
66	1516 10	Animal fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinized, whether or not refined, but not exposed to further processing	veterinary certificate – only for controlled **products** of animal origin intended for **food** and feed purposes and not **subjected** to disinfection treatment	The measure **is applied** to goods imported into the territory of the Republic of Belarus	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
67	1516 20	Vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinized, whether or not refined, but not exposed to further processing[3]	veterinary certificate – only **upon declaration** the use of products **in** animal feed	yes	no

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
68	1518 00	Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulfurized, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils	veterinary certificate (**when** declaring the use of products in veterinary, including **in** animal feed) – for goods imported into the territory of **the** Republic of Belarus, **for goods** imported **to** the territory of **the Republic of Kazakhstan and the** Russian Federation, - veterinary certificate (except **for** products containing less than 50% components of animal origin)	The measure is applied to goods imported into the territory of the Republic of Belarus, as well as **upon import** to the territory of **the Republic of Kazakhstan and the** Russian Federation **of goods**, specified in this **position**, **except for** the vegetable fats	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
69	1521 90	Bee wax, other insect waxes and spermaceti, whether or not refined or colored	veterinary certificate	yes	no
70	1601 00	Sausages and similar products, of meat, meat offal or blood[1]; food preparations based on these products[1]	veterinary certificate	yes	yes
71	1602	Other prepared or preserved products of meat, meat offal or blood[1]	veterinary certificate	yes	yes
72	1603 00	Extracts and juices of meat, fish or crustaceans, mollusks or other aquatic invertebrates	veterinary certificate	yes	Inclusion **in the registry** is not required, but the import **permit** and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
73	1604	Prepared or preserved fish[1]; sturgeon roe and its substitutes prepared from fish eggs[1]	veterinary certificate	yes	yes
74	1605	Crustaceans, mollusks and other aquatic invertebrates, prepared or preserved[1]	veterinary certificate	yes	yes
75	from 1902 20	Stuffed pasta, whether or not cooked or otherwise prepared, containing fish, crustaceans, mollusks or other aquatic invertebrates, sausages, meat, meat offal, blood, or the products of heading 04, or any combination of these products[2]	veterinary certificate (except **for** products containing less than 50% components of animal origin)	The measure **is applied** to goods imported into the territory of the Republic of Belarus (except **for** products containing less than 50% components of **animal** origin)	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
76	from 1904 20	Cereals (except corn) in the form of grain or flakes or otherwise treated (except flour, fine and meal), pre-cooked or otherwise prepared, containing fish, crustaceans, mollusks or other aquatic invertebrates, sausages, meat, meat offal, blood, or the products of heading 04, or any combination of these produkts[2]	veterinary certificate (except **for** products containing less than 50% components of **animal** origin)	The measure **is applied** to goods imported into the territory of the Republic of Belarus (except **for** products containing less than 50% components of **animal** origin)	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
77	from group 20	Derivatives of vegetables, fruit, nuts or other parts of plants and mixtures thereof, containing sausage, meat, meat offal, blood, fish or crustaceans, mollusks or other aquatic invertebrates, or products of heading 04, or any combination of these products[2]	veterinary certificate (except **for** products containing less than 50% components of **animal** origin)	The measure **is applied** to goods imported into the territory of the Republic of Belarus (except **for** products containing less than 50% components of **animal** origin)	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
78	from 2102 20	Inactive yeasts[3]; other dead single-cell microorganisms used as animal feed[3]	veterinary certificate	yes	no
79	from 2104	Soups and broths and preparations therefor; homogenized composite food preparations (except vegetable) homogenized composite food products containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of heading 04 HS or any combination these produkts[2]	veterinary certificate (except **for** products containing less than 50% components of **animal** origin)	The measure is applied to goods imported into the territory of the Republic of Belarus (except **for** products containing less than 50% components of **animal** origin)	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
80	from 2105 00	Ice cream, except ice cream on fruits and berries basis, fruit and edible ice[2]	veterinary certificate – for goods imported into the territory of the Republic of Belarus, for goods imported to **the territory of the Republic of Kazakhstan and the** Russian Federation, – veterinary certificate (except **for** products containing less than 50% components of **animal** origin)	The measure **is applied** to goods imported into the territory of the Republic of Belarus	The measure **is applied** to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to **the territory of the Republic of Kazakhstan and the** Russian Federation, **inclusion in the registry is not required,** but the veterinary certificate should include number and (or) **name of the company** that **issued** controlled goods into circulation
81	from 2106	Food products not elsewhere specified or included[2]	veterinary certificate – for goods imported into the territory of the Republic of Belarus, for goods imported to **the territory of the Republic of Kazakhstan and the** Russian Federation, – veterinary certificate (except **for** products containing less than 50% components of **animal** origin)	The measure **is applied** to goods imported into the territory of the Republic of Belarus	The measure **is applied** to goods imported into the territory of the Republic of Belarus. **In respect of** goods imported from third countries to **the territory of the Republic of Kazakhstan and the** Russian Federation, **inclusion in the registry is required,** if **company** – manufacturer of sausage, meat, meat **by-products**, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or products of **group** 04 of **EAEU** HS Code or any combination of these products is not

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
					included **in** the **registry**
82	2301	Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, mollusks or other aquatic invertebrates, unfit for human consumption; greaves (cracklings)	veterinary certificate	yes	Inclusion **in the registry** is not required, but the import permit and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
83	from 2302	Bran, sharps and other residues from sifting, milling or other working of cereals or legumes, granulated or non-granulated, used as animal feed[3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
84	from 2303	Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets, used as animal feed[3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
85	from 2304 00 000	Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soybean oil, used as animal feed[3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
86	from 2306	cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, used as animal feed[3]	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
87	2308 00	Vegetable materials and vegetable waste, vegetable residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding3	veterinary certificate	yes	Inclusion **in the registry** is not required, but the veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
88	2309	Products used in animal feeding	veterinary certificate – for goods imported into the territory of the Republic of Belarus, veterinary certificate – for goods **that contain ingredients** of animal origin imported **into the territory of the Republic of Kazakhstan and the** Russian Federation	yes (except **for** feed for cats, **dogs, ferrets, ferret mustela furo, mustela, rodents, water aquarium and terrarium animals** in **the** original packaging, **thermally processed**)	Inclusion **in the registry** is not required, but the import permit and veterinary certificate **should include** number and (or) name of the **company** that **issued** controlled goods into circulation
89	from group 29	Organic chemical compounds (for veterinary medicine)[3]	no	yes	no

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
90	from group 30	pharmaceutical products for veterinary medicine)	No	Measure **is applied** to goods imported **from third countries** into the territory of the Republic of Belarus, as well as unregistered **goods** imported from third countries **to the territory of the Republic of Kazakhstan and** the Russian Federation	Inclusion in the **registry** is not required, but **the number** of unregistered pharmaceutical products **and (or) name of the company that issued controlled goods into circulation should be specified in** the import **permit** and (or) quality certificate for additives **of chemical** or microbiological synthesis
91	3101 00 000 0	Fertilizers of animal or vegetable origin, mixed or unmixed, chemically treated or untreated; fertilizers produced by mixing or chemical treatment of products of animal or vegetable origin	veterinary certificate – for goods imported into the territory of the Republic of Belarus, veterinary certificate – for goods **that contain ingredients** of animal origin imported **into the territory of the Republic of Kazakhstan and the** Russian Federation	Yes	Inclusion **in** the **registry** is not required, but import **permit** and veterinary certificate for controlled **products** containing **ingredients** of animal origin **should specify umber** and (or) name of the **company** that **issued** controlled goods **into circulation**

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
92	from 3501	Casein, caseinates and other casein derivatives;	veterinary certificate	yes	The measure **is applied** to goods imported into the territory of the Republic of Belarus. **In respect of** goods imported from third countries to **the territory of the Republic of Kazakhstan and the** Russian Federation, **inclusion in the registry is not required**, but **the** veterinary certificate should include number and (or) name of the **company** that **issued** controlled goods **into circulation**
93	3502	Albumins (proteins) (including concentrates of two or more whey proteins, containing by weight more than 80 percent whey proteins, calculated on the dry matter), albuminates and other albumin derivatives	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
94	3503 00	Gelatin (including gelatin in rectangular (including square) sheets, whether or not surface-worked or colored) and gelatin derivatives; isinglass; other glues of animal origin	veterinary certificate	yes	The measure **is applied** to goods imported into the territory of the Republic of Belarus. **In respect of** goods imported from third countries to **the territory of the Republic of Kazakhstan and the** Russian Federation, **inclusion in the registry is not required**, but **the** veterinary certificate should include number and (or) name of the **company** that **issued** controlled goods **into circulation**
95	3504 00	Peptones and their derivatives; other protein substances and their derivatives, not elsewhere specified or included; hide powder, whether or not chromed	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
96	from 3507	Ferments (enzymes)[3]; **ferment** preparations (for use in veterinary)[3]	no	yes	no
97	from 3808	Insecticides, rodenticides, disinfectants and similar products, put up in forms or packaging for retail sale or as preparations or articles (for the use in veterinary medicine)	no	measure applies to goods imported **from third countries** into the territory of the Republic of Belarus, as well as unregistered good**s** imported from third countries **to the territory of the Republic of Kazakhstan and the** Russian Federation	no

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
98	3821 00 000 0	Prepared culture media for development or maintenance of microorganisms (including viruses and the like) or of plant, human or animal cells[3]	no	yes	no
99	from 3822 00 000 0	Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents, whether or not on a backing; certified reference materials (for the use in veterinary medicine)	no	The measure **is applied** to goods imported into the territory of the Republic of Belarus, **in respect of** goods imported from third countries to **the territory of the Republic of Kazakhstan and the** Russian Federation, measure is applied to the **appropriate** technical regulations	no
100	4101	Unprocessed raw hides of cattle (including buffalo) or equine animals (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
101	4102	Unprocessed sheep and lamb hides (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
102	4103	Other processed hides (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
103	4206 00 000 0	Products from gut (other than silkworm gut), of goldbeater's skin, of bladders or of tendons	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
104	4301	Down and fur raw materials (including heads, tails, paws and other parts or cuttings, suitable for the production of fur)	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
105	5101	Wool not exposed to carding and combing	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
106	5102	Fine or coarse animal hair, not carded or combed	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation

No.	Group, HS code	Description of goods	Supporting documents	Import licence (yes/no)	List of third countries enterprises (yes/no)
1	2	3	4	5	6
107	5103	Wastes of wool and fine or coarse animal hair, including textile wastes, but excluding pickled raw materials	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
108	from 9508 10 000 0	Animals as part of traveling circuses and menageries	veterinary certificate	yes	Inclusion **in the registry** is not required, but **on** the import **permit** and veterinary certificate **should include** number and (or) name of **the company** that issued **controlled goods** into circulation
109	from 9705 00 000 0	Collections and collectors' pieces of zoology, anatomy and paleontology (except for the museum exhibits)	veterinary certificate	yes	no
110	from 3923, from 3926, from 4415, from 4416 00 000 0, from 4421, from 7020 00, from 7309 00, from 7310, from 7326, from 7616, 8436 10 000 0, from 8436 21 000 0, from 8436 29 000 0, from 8436 80 900 0, from 8606 91 800 0, from 8609 00, from 8716 39 800	Equipment and supplies for transportation, breeding, temporary overexposure of animals of all kinds, as well as equipment for the transportation of pre-used raw materials (products) of animal origin	**N**o (document **of the** authorized body of **the** exporting country - in **the** case of complex epizootic situation)	yes (**in the** case of complex epizootic situation **additional requirements are also specified**)	no

Note: In order to use this list, please use both name of goods and **EAEU** HS code.

[1] For epizootic well-being.

[2] Veterinary control in relation to finished food products containing no raw meat components or containing in its composition less than half of other processed product of animal origin, intended for the Russian Federation, shall not be carried out, provided that such products are securely packaged or sealed in clean containers and can be stored at room temperature or were fully prepared in the manufacturing process or were entirely heat-treated till complete change of the natural properties of the raw product.

[3] Veterinary control in respect of goods intended for the Russian Federation shall not be carried out and none of the measures specified in columns 4 - 6 of this list shall apply.

[4] Veterinary control in relation to finished food products containing no raw meat components or containing in its composition less than half of other processed product of animal origin, intended for the Republic of Kazakhstan and the Russian Federation, shall not be carried out, provided that such products are securely packaged or sealed in clean containers and can be stored at room temperature or was fully prepared in the manufacturing process or was entirely heat-treated till complete change of natural properties of the raw product.

[5] Veterinary control in relation to goods intended for the Republic of Kazakhstan and the Russian Federation shall not be carried out and none of the measures specified in columns 4 - 6 of this list shall be applied."