

WORLD TRADE ORGANIZATION

RESTRICTED

TN/CTD/M/10
21 January 2003

(03-0303)

Committee on Trade and Development Tenth Special Session

NOTE ON THE MEETING OF 6 NOVEMBER 2002

Chairman: H.E. Mr. Ransford Smith (Jamaica)

A. ADOPTION OF THE AGENDA

1. The Chairman said that the draft agenda for the meeting was contained in airgram WTO/AIR/1945 of 25 October 2002.

2. The agenda was adopted.

B. DISCUSSION OF AGREEMENT-SPECIFIC PROPOSALS

- Agreement on Sanitary and Phytosanitary Measures (TN/CTD/W/2, TN/CTD/W/3/Rev.2, TN/CTD/W/6)

3. The Chairman said that nine proposals addressing the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) were before the Committee. Three of the proposals had been jointly submitted by the delegations of Cuba, the Dominican Republic, Egypt, Honduras, India, Indonesia, Kenya, Mauritius, Pakistan, Sri Lanka, Tanzania and Zimbabwe (document TN/CTD/W/2). Those proposals addressed paragraph 2 of Article 9 and paragraphs 1 and 3 of Article 10 of the SPS Agreement. Four of the nine proposals on the SPS Agreement had been made by the African Group, on Articles 9.2, 10.1, 10.3 and 10.4 of the Agreement (document TN/CTD/W/3/Rev.2). Two further proposals had been submitted by the delegation of India (document TN/CTD/W/6), addressing paragraphs 2 and 4 of Article 10 of the SPS Agreement. He suggested that Members considered all the proposals together.

4. The representative of Canada said that his delegation wished to hear the concerns behind the proposals made by developing countries with regard to the SPS Agreement. Knowledge of those underlying concerns was important to ensure that they were addressed in a more effective way. The Committee on Sanitary and Phytosanitary Measures (the SPS Committee) had also had the issue of special and differential treatment (S&D) and the related issues of technical assistance on its agenda for some years. It was therefore important to ensure that the discussions in the two committees were mutually beneficial. His delegation believed that the existing S&D provisions in the SPS Agreement had been under-utilised. Nevertheless, the existing S&D provisions should be made more effective, user friendly and profitable for developing country Members, rather than developing new provisions. The S&D provisions were unique and they had to relate to Members ability to regulate specific challenges encountered in that respect. His delegation found it impossible to implement all proposals in the SPS area, as they would imply that Members would not be able to regulate until every incremental cost in every other Member had been fully addressed by cost free grants. The SPS Committee had developed a taxonomy of different types of technical assistance programmes. However, the generally held view was that the technical assistance that was being provided might not have been of the right type. He made reference to a recent workshop at which both Inter American

Institute on cooperation in Agriculture (IICA) and the International Plant Protection Convention (IPPC) had demonstrated that the developing countries prioritised legal and institutional frameworks; the soft infrastructure over technical scientists and equipment. Soft infrastructure was not the easiest kind of technical assistance to provide but Members now knew the type of assistance required and had to adapt to those requests. The SPS Committee had developed a questionnaire on technical assistance issues to which twenty-eight countries had responded. That questionnaire had not only helped those Members get technical assistance but had also helped enhance the understanding of technical assistance issues in the SPS Committee. He reiterated that his delegation was of the view that the capacity of the existing SPS provisions had to be exhausted before new obligations could be considered. His delegations view on Article 10.1 was similar to that expressed by the Like-Minded Group. His Government had proposed that when an importing Member notified a measure and interested developing countries expressed an interest therein, there would be an obligation for the notifying Member to consult with developing countries to address their concerns, through technical assistance or through an alteration to the measure on an MFN basis. The solution then have to be notified. If solutions were notified it would encourage others to apply. It would also encourage other importing Members to take similar action. Such transparency would encourage Members to take full advantage of existing provisions.

5. The representative of the United States agreed with the representative of Canada that the application of S&D provisions under the SPS Agreement was fundamentally different from the way S&D treatment provisions were applied in other WTO agreements. Members had constructively been discussing technical assistance and S&D treatment issues in the SPS Committee when such issues related to specific Members and specific products. The issue of SPS had been debated extensively in the run up to the Doha Ministerial Conference as part of the implementation debate. He said although many of the issues on the agenda of the Special Session of the Committee on Trade and Development (CTD) overlapped with those earlier discussions, it would not be productive to renew the implementation debate in the context of the S&D treatment discussions. He recalled that the Doha Ministerial Declaration covered six points. Some Members wished the Doha Ministerial Declaration to go beyond those. However, the balance of the SPS Agreement might then be affected. His delegation was willing to work with Members in a partnership between the public and the private sector to find workable ways to operationalize the S&D treatment provisions in the SPS Agreement. Effective implementation of the SPS Agreement by all Members would increase access to markets and improve health protection for developing countries. He believed that a trade success in one-product in which there had been specific SPS concerns would build private domestic infrastructure for the success of additional products. Information handling and information sharing were key issues. The proposal made by the delegation of Canada was one step in the right direction in that regard. More targeted work would be necessary to enable SPS inquiry points and notification authorities to engage effectively in improving the effectiveness of S&D treatment provisions. It was important that developing countries expressed clear interests and clear concerns regarding their trade in particular products in order to find solutions to trade issues between Members.

6. The representative of the European Communities said that the lack of movement on SPS-related matters was due to the complexity of the subject-matter. Some of the proposals seemed unfeasible as they did not only depend on the good will of Members, but related to standards applied for health protection and other similar reasons. That was particularly true for the discussion relating to Article 10.2 of the SPS Agreement. It was also true, but in a different way, for the proposals on Article 9.2 which would condemn Members to withdrawing measures. Nevertheless, his delegation realised the reason why those proposals had been made as SPS measures could and did act as barriers to trade. His delegation therefore took the underlying concerns seriously. Funding was being made available by International Trade Centre (ITC) and bilateral donors like the European Communities and its Member states for SPS-related technical assistance in order to integrate countries, particularly developing countries, into the multilateral trading system. He said that the further work on equivalence that was underway in the SPS Committee represented an important part of future

implementation of SPS concepts. His delegation believed that it might be possible, in the near future, to develop a set of illustrative guidelines on equivalence agreements as a tool to inform WTO Members about key-parameters and elements that had to be taken into account when considering on such agreements. That would go beyond proposals on transparency and mutual knowledge and would be a sign of positive engagement on the issues of equivalence.

7. The representative of Argentina said that his delegation was interested in ensuring that developing countries could benefit from technical assistance in the context of the SPS Agreement. He proposed that Members take into consideration the actual needs that developing countries had in relation to technical assistance. His delegation could not identify a precise link between the discussion on S&D treatment in the Special Session of the CTD and the mandate given by Ministers at the Doha Ministerial Conference. He appreciated the comments made by the representative of the European Communities concerning the question of equivalence as that could help exporting developing countries to solve some of the problems they faced.

8. The representative of Egypt said that the proposal made by the representative of Canada to operationalize Article 10.1 of the SPS Agreement was a valuable contribution. However, he did not believe that that proposal addressed the requirement captured in the proposal by the Like-Minded Group, which was to secure and enhance current levels of exports from developing and least-developed countries (LDCs). His delegation agreed with the proposal made by the representative of Canada that enhancing the transparency of Article 10.1 could be beneficial although many other concerns also had to be addressed. The representative of the United States had questioned whether the current balance of the SPS Agreement would be maintained if the proposed amendments or adjustments were made, and had also stated that the current S&D provisions had not been utilised. Although he agreed with most of those arguments, there was a need to amend and adjust the provisions of the SPS Agreement. It was the vague language of the articles of the SPS Agreement which was responsible for under their utilisation. The proposed amendments to the language of those articles were made in order to make them more user-friendly and responsive to the needs of developing countries. He clarified that the proposals did not relate to new rules or new provisions, but rather to amendments to the existing provisions.

9. The representative of Australia said that strengthened S&D treatment provided by developed country Members under the SPS Agreement was more likely to take the form of commitments to provide technical assistance under Article 9 than mandatory provisions under Article 10. She said that that was due to the direct link between the ability of Members to operate quarantine regulatory regimes and the workability of proposals that had been put forward under Article 10. Her delegation considered it more practical and more trade-focused to consider Article 9. The SPS measures taken by Members were determined on a case-by-case basis and would vary according to the likelihood of pest and disease entry under scientific examination and the appropriate level of protection of the importing country. It was difficult to see how mandatory provisions could be made under Article 10 when measures were determined on a case-by-case basis. Once an importing Member determined its SPS measure, based on science, the risk was not diminished by virtue of an exporting Member being developing or developed. With reference to the proposals to allow for longer time frames for compliance under Article 10.2, she said that such an extension would depend on the nature of the measure. The focus should be on the workability of proposals. It was important to consider where the proposals denied the sovereignty of an importing country to determine its appropriate level of protection as established in Article 2. The proposal that the SPS Committee shall grant exceptions under Article 10.3 provided for an automaticity that denied Members the right set out under Article 2 of the SPS Agreement, especially when that right was countered with the right set out in Article 5.6, that the measure be applied in the least trade restrictive manner. She referred to the proposal made by the delegation of India in document TN/CTD/W/6, that the "should" in Article 10.4 should be read as a duty rather than an exhortation to encourage developing country participation in international

organisations. That was something which was practicable and deliverable and her delegation would be making some contributions in that regard.

10. The representative of Pakistan said that the issues discussed had been on the table since before the Seattle Ministerial Conference. The two main questions related to discussions that had arisen from the underlying concerns that developing countries had with respect to their lack of infrastructure and lack of the financial and technical capabilities necessary to live up to some SPS requirements. That would lead to trade losses on the one hand and consumer health on the other. Both concerns were justified. What his delegation was seeking was a commitment by developed countries to provide technical assistance to build infrastructure. The proposal on Article 10.1 suggested consultations among exporting developing country Members and importing developed country Members to secure and enhance the current levels of exports from developing countries, to maintain market shares, and to build infrastructure capabilities. Developing countries were not asking other Members to surrender their right to impose SPS, but that they assist developing countries Members to acquire the infrastructure capabilities they needed to comply with the SPS requirements developed countries imposed. He said that the word "consider" in the phrase "call to consider" in Article 9.1 of SPS Agreement, did not contain any reference to a precise length of time. For example, mango exporters in Pakistan had been prevented from exporting to a particular market for the last five years. Citrus exporters had been hit by rules in another major market for the last three years and the Government of Pakistan was still requesting technical assistance to resolve the problem. Two-thirds of the Doha Ministerial Declaration related to technical cooperation. SPS was an area where developing countries really needed technical assistance.

11. The representative of Switzerland said that SPS measures were intended to protect consumer and animal health. That concern prevailed over any other trade concern. She said that her Government aimed to implement the SPS Agreement in a way that would minimise its impact on international trade while still maintaining the desired health protection level. SPS measures were normally based on international norms. Her delegation did therefore not see how it would be possible to reconcile the desired health protection level with any obligation to maintain a certain market share. Such a system was actually contrary to the basic idea of the multilateral trading system which was a system based on market rules. She said that her delegation also recognised that the transfer of technology had to be encouraged in order to achieve development of the technologies necessary to guarantee the application of SPS measures. That should be a collective task of development co-operation. Her Government was prepared to act in that direction, however there should be no legal requirement to attain a certain result. With reference to the proposals regarding Article 10.2 of the Agreement, she said that that had been intensely negotiated during the preparations for the Doha Ministerial Conference and constituted a negotiated outcome. It would therefore be difficult to find another balance. Developing countries could face problems in implementing SPS measures and action to assist developing countries would sometimes be necessary. However the approach to define the problems and identify the solutions should be pragmatic and should not jeopardise the right of Members to protect the health of people and animals.

12. The representative of India said that developing countries had made a number of proposals in the periods leading up to the Seattle and the Doha Ministerial Conferences. Those proposals had led to the Decision on Implementation-Related Issues and Concerns. At the Doha Ministerial Conference Ministers had also given a clear mandate to review all S&D provisions with the view to strengthening them and making them more precise, effective and operational. He emphasised that that mandate should be kept in mind when discussing the proposals tabled. His delegation recognised the right of Members to apply SPS measures to protect human, animal and plant health. Such SPS measures should, at the same time, not be applied in a manner which would constitute disguised restrictions on international trade. He agreed with the representatives of Pakistan and Egypt that the intention of the proposals made was not to change the balance of rights and obligations contained in the SPS Agreement. He referred to his delegation's proposals on Article 10.2 and said that longer time frames

for compliance should be accorded for developing countries in relation to their capabilities to fulfil new SPS measures when there was scope for phased introduction. It was difficult to see how that proposal changed the balance of rights and obligations. He referred to the proposal made on Article 10.4 relating to the text stating that Members should encourage and facilitate the active participation of developing country Members in the relevant international organisations. Discussions in the SPS Committee had resulted in the Director General taking the initiative to facilitate the participation of developing countries in international standard setting bodies. He said that that fact had been recognised in the Decision on Implementation-Related Issues and Concerns. More could be done for the effective participation of developing country Members in international discussions. With respect to Article 9.2 he said that his delegations' proposal sought a clear commitment from major trading partners, that in case exporting developing country Members faced difficulty in fulfilling the SPS requirements of an importing Member, the importing Member should provide technical assistance.

13. The representative of Kenya said that Ministers at the Doha Ministerial Conference had created the Special Session of the CTD to make S&D treatment provisions more meaningful in order to fully integrate the disadvantaged Members into the multilateral trading system. Developing countries did not seek to lower any standards. They wanted to follow high standards but needed assistance to do so. Some Members had already admitted that the technical assistance provided was inadequate. The proposals by the African Group requested technical and financial assistance for African Members to live up to SPS standards. The proposals were not intended to change the provisions of the SPS Agreement, but rather to strengthen it through assistance to developing countries. If other Members considered those proposals unworkable, he asked what they would consider as workable.

14. The representative of Malaysia said the SPS Agreement specifically recognised the need for S&D provisions to enable developing country trade partners to comply with specific SPS measures and to maintain market shares. There were types of technical assistance that developed Members should consider to make the SPS Agreement more effective. Those included the provision of technical manuals explaining the requirements of new SPS measures, and information on relevant technologies to enable developing countries to meet new SPS requirements. In addition, seminars and technical missions should be arranged for developing country exporters to better understand new SPS measures and help meet them new requirements. Such assistance did not involve any large costs and would effectively meet part of the developing Members' concerns. With respect to paragraph 54 of the African Group proposal regarding the requirement to initiate prior consultations, she said that such prior consultations would be complementary to the current obligation of providing notifications in the period designated for comments. However, her delegation recognised that that might not be possible for emergency measures.

15. The representative of Canada said that the suggestions made by the delegation of Malaysia were reasonable and practical. The proposal from the Like-Minded Group on Article 10.1 was one that could be worked on and the SPS Committee was already working on something similar. He said that progress had already been made with respect to the proposal made by the delegation of India on Article 10.4, regarding the participation of developing countries in standard setting bodies. Nevertheless, the issue might benefit from an additional push forward. He believed that all Members seemed to agree on the aim to make S&D provisions effective, meaningful and practical. Part of the problem was that no Member had requested for S&D related assistance for the last seven years from the Government of Canada. The situation would have been different if his Government had turned down requests for technical assistance. His delegation did therefore not see how making the provisions on technical assistance mandatory would solve the problem if no Member requested technical assistance. More Members should request technical assistance, and importing Members had to be responsive to such requests. That would effectively help address some of the concerns. He went on to say that, in contrast, some of the suggestions on Article 10.3 were not useful. Article 10.3 stated "With a view to ensuring that developing country Members are able to comply with the

provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs". There were proposals to make the granting of time limited exceptions mandatory. However, no Member had ever asked the Committee for such an exception. The real problem seemed to lie in the fact that no country had ever requested for an exception, and the question therefore was why Members were not using Article 10.2. Both the demand and the supply side of S&D treatment had to be considered to find a way forward with the aim of making it more flexible, effective and meaningful.

16. The representative of New Zealand said that his delegation believed that the SPS Committee had been doing valuable work in the area of technical assistance, equivalence and transparency. That work should be recognized and further encouraged. An assessment of the proposals showed that the recommendations in the proposals did not effectively operationalize the S&D provisions in the SPS Agreement. What the proposals did was to put an unsustainable burden on a number of Members that risked to undermine the SPS Agreement. He agreed with the delegations of Canada, Pakistan and Malaysia there should be more focus on technical assistance. However, that should be done on a voluntarily rather than mandatory basis. Nevertheless, more efforts to build capacity had to be undertaken and more technical assistance had to be provided. His Government was ready to play its part. The SPS Committee could deal with the issues of S&D in relation to the SPS Agreement in a coherent manner, and there was already a work programme in place which could be broadened and intensified.

17. The representative of Haiti referred to paragraph 44 of the Doha Ministerial Declaration, which stated that all S&D provisions should be reviewed with a view to strengthen them and making them more precise, effective and operational. He referred to the comments made by some delegations who had questioned why there was a need to make certain provisions mandatory, and said that the WTO was a rules-based organization. He asked how it could be ensured that 144 Members carried out the rules of the organization if there were no fixed rules. The delegation of Switzerland had said that the aim of the SPS Agreement was to protect consumers, animals and plants. It was exactly with that in mind that Article 9.2 should be reviewed and made mandatory. It was suggested that a new paragraph be added to Article 9 of the SPS Agreement, which would ensure that if an exporting developing country member identified specific problems relating to inadequate technology and infrastructure in fulfilling the SPS requirements of an importing developed Member, the latter shall provide the former with the relevant technology and technical facilities. He added that the provision of technology and technical facilities should be provided on preferential and non-commercial terms, preferably free of charge, taking the development, financial and trade needs of the exporting developing country into account.

18. The representative of Mexico said that his delegation recognised the developing country concerns with the proliferation of SPS measures. To the Members who had difficulty in understanding the reasons behind the proposals tabled, he said that one of the main concerns of Members when receiving developed Members trade policies was the adoption of SPS measures beyond those allowed under the SPS Agreement. If Members adhered to the SPS agreement there would be no need for technical assistance. Members currently required technical assistance each time they needed to fulfil SPS obligations. The need for technical assistance would be endless. Therefore, the proposals that had been submitted did not tackle the substance of the issue. The substantive challenge was to strictly satisfy the obligations of the SPS Agreement, particularly the obligations regarding transparency. He agreed with the statement made by the delegation of Argentina, that there should be an implementation mechanism when technical assistance requests were submitted to enable developing countries to meet the requirements of the SPS Agreement. However, he said his delegation did understand that even if the provisions were made mandatory, that would not help improve the implementation of Articles 9 and 10 of the SPS Agreement. His delegation expressed similar concerns as those expressed by the delegation of Egypt, that many of the problems were due to

the ambiguity and vagueness of some of the provisions of the SPS Agreement. However, he did not believe that the SPS Agreement should be amended. His delegation encouraged the SPS Committee to find good ways to implement Articles 9 and 10 of the SPS Agreement, as it had done for Article 5.5.

19. The representative of Egypt said that several delegations had expressed their concerns about the non-utilisation of the S&D provisions in the SPS Agreement. However, those provisions had been utilised, but mainly on a bilateral basis. The discussions in the SPS Committee concerning an SPS regulation imposed by the European Communities on Alpha Toxin had been informative in that regard. That utilisation was not recorded by the Secretariat and was a different issue. Sending comments on the notifications were not required. It was even discouraged as it was said that it might over-burden the Secretariat. The representative of Pakistan had also provided an example of unsatisfactory use of S&D provisions. He asked whether it would be necessary for the delegation of Pakistan to go to the Dispute Settlement Body (DSB) to have such utilisation recorded. He said his delegation believed that non recorded utilisation should not be used as a pretext to refrain from examining the S&D tabled.

20. The representative of Chile said that the representative of Haiti had made a good proposal. When Members adopted standards which were not harmonized at the international level there should be more transparency and clarity in defining the true risks. He said that S&D treatment was not always explicit in bilateral agreements. A dialogue between developed and developing countries was required. He argued that technical assistance could be focused on strengthening developing countries' capacities in order to have a more fair and equitable trade. Developed countries should establish their limits of tolerance based on past experiences and act in a way that would not hinder trade.

21. The representative of Argentina referred to the proposal to make an addition to Article 9.2 stating that exporting developing countries should be provided with technical assistance for diagnostic methods in order to meet the requirements of the importing countries. He proposed a simplification of the administrative procedures as those procedures were often costly and constituted barriers for the exporting developing countries. It should be possible to make it cheaper for developing country Members to export and to make it easier for them to comply with rules of origin requirements. What mattered was the concrete implementation of methods to increase access to developed country markets.

22. The representative of Japan said that although technical assistance was important, the human and financial resources for it were limited. Donors and developing country Members had to cooperate more on issues of technical assistance. A Seminar relating to technical assistance had been held the previous day. The need for enhanced cooperation among the parties involved in technical assistance had then become apparent.

23. The representative of the United States said that in order to build SPS-specific infrastructure and enable Members to participate in the activities of the SPS Committee, his Government and other Members had made a commitment to bring one trade official and one regulatory official to Geneva, from each of the thirty two countries in the American and the Caribbean Region, to the meetings at the SPS Committee three times a year. The programme had begun in November 2002 and his delegation would be interested to see how that programme evolved because he hoped that it would help build capacity to implement both the rights and the obligations in the SPS Agreement. He referred to documents G/SPS/GEN/181/Add.1 and G/SPS/GEN/181/Add.2 which presented data on technical assistance provided by his Government to other WTO Members for the implementation of the SPS Agreement. The initial focus of that technical assistance had been on implementing basic aspects of the SPS Agreement such as developing enquiry points and meeting notification obligations. Members had in the last few sessions of the SPS Committee expressed the need for that focus to be changed. His Government had realized that it had to be more responsive to the needs of developing

countries and LDCs, and wished to change the system from a donor-driven to a needs-driven technical assistance programme. He said that he wished to have more information from developing countries and LDCs on the nature of the technical assistance they required. Technical assistance would be most productive if it focused on the specific export potential of recipient Members. The nature of the discussions in the SPS Committee had changed as more developing country Members had begun to bring their specific trade concerns to the PS Committee. He hoped that Members would take advantage of the changing dynamics in the SPS Committee and use the SPS Committee as a forum for discussion before resorting to the Dispute Settlement Body. He reminded delegations that many of the issues addressed in the SPS Committee had been resolved and that only a few SPS disputes had gone to the Dispute Settlement Body.

24. The representative of St. Vincent and the Grenadines said that his delegation appreciated the sponsorship provided by the Government of the United States to participate in the meetings of the SPS Committee. Small island developing states and other developing countries believed in the same principles of free trade as developed countries. Nevertheless, countries like his could not fully participate and integrate into multilateral trading system because of economic constraints. His Government and other banana producing countries had experienced difficult economic times and his Government had taken the decision to diversify the economy. St. Vincent and Grenadines had been exporting fish to Martinique for decades. Since Martinique was a part of France and France a part of the European Communities, the SPS requirements of the European Communities were applicable. Those SPS requirements demanded that his Government fulfil certain quality and standard specifications. His Government had received technical assistance from the Government of Japan who had helped establish facilities to meet such specifications. However, those facilities had still failed to meet the standards set by the importing market of the European Communities. His Government therefore had to make further adjustments, but the European Communities had luckily agreed to provide assistance. The banana producing population which sought to diversify into other production would otherwise not have been able to access the market for which those products were meant. While his delegation appreciated that it was every Member's obligation to meet the standards set by others, he believed that developed Members had a moral obligation to assist developing country Members to enable them to meet the SPS standards set by importing developed country Members in traditional areas of trade between the partners. He agreed with the representative of Switzerland that the underlying principle was to get safe food to the markets. Nevertheless, he requested that assistance be provided to producers in countries like his so that safe food could reach the market. He recognized that making it binding for developed country Members to provide assistance might put a strain on their economies. Nevertheless, they were already providing assistance to developing countries, so the only difference would be that the requests for assistance would be specific. He appreciated the comments made by the delegation of Egypt that the specific developing country concerns had to be addressed by the developed country Members.

25. The representative of Indonesia said that developing countries expected developed country Members to show flexibility as they had failed to provide the necessary technology related capacity building, some developed Members had proposed options for how to deal with technical assistance under the SPS Agreement. As his delegation hoped for concrete results, he looked forward to further discussions based on the solutions proposed.. The SPS Agreement was important for his Government, but due to the lack of technical capacity, Indonesian producers found it difficult to meet the technical standards introduced by their major developed country Members. He urged the major developed trading partners to introduce flexible options in order to facilitate for developing countries to increase their exports.

26. The representative of Uganda said that his delegation was encouraged as Member's reactions were more positive than they had been in the past. With respect to the comment made by the delegation of Canada on non-utilisation of the S&D treatment provisions, he said that that was exactly the question the Ministers at the Doha Ministerial Conference had addressed. The language in the

Decision on Implementation-Related Issues and Concerns showed that Ministers had agreed that all S&D provisions should be reviewed with a view to strengthening them, making them more precise, effective and operational. That was a recognition of the ineffective utilisation of S&D provisions and that something had to be done about it. He agreed with the representative of Egypt that S&D provisions had been utilised at a bilateral level. The reason for that was that most of the S&D provisions were of a non-binding nature which forced Members to take action on a bilateral level. Making the provisions binding would increase the scope for their effective utilisation. Members would not have to beg if their implementation was given. Members therefore needed to focus on the mandate given to them by the Ministers at the Doha Ministerial Conference. He appreciated the view expressed by the representative of United States that assistance should henceforth be needs-driven to satisfy the specific needs of the recipient Members.

27. The representative of the Philippines reiterated that the principle of S&D was a developing country right. As it was a right, S&D should be enjoyed by developing countries. S&D therefore needed to be nurtured, protected and supported in order for products originating in developing country to get better access to the main markets. Technical assistance had to be recipient-driven and focussed on the products of interest to developing countries, such as tropical products and not on products of interest to developed countries.

28. The representative of Kenya said that his delegation was encouraged by the comments made regarding the proposals on the table and was confident that some progress had been made in the discussions on S&D provisions. However, he was concerned by comments suggesting that some of the issues should rather have been taken up in the SPS Committee. The Special Session of the CTD had a reporting deadline in July 2002 which had to be postponed to December 2002. Given that less than two months were left until then, he questioned whether the work would be completed in time if it was to be referred to the SPS Committee. He appealed to Members to continue to work in the Special Session in order for the December 2002 deadline to be met.

29. The representative of India said that he had heard some encouraging comments on his delegations' proposal TN/CTD/W/6 during the discussion, and hoped that concrete results would be achieved on the mandate given by Ministers at the Doha Ministerial Conference. His delegation appreciated the comments made by the delegations of Egypt and Uganda on the utilisation of S&D provisions. He believed that the primary objective of the work on S&D provisions was to make them precise, effective and operational.

30. The Chairman said the Special Session had had an interesting exchange of views on the proposals tabled. That provided the Special Session a good foundation to move ahead. Nevertheless, time was scarce before the Special Session had to report to the General Council with clear recommendations for a decision. Technical assistance had received a lot of attention and all Members had recognised its importance as well as the need to ensure its effective delivery. More work should be undertaken in that respect as progress seemed possible. Responses to the proposals made on Article 10.4 of the SPS Agreement by the delegation of India and on Article 10.1 by the African Group and the Like-Minded Group suggested some receptivity to some of the elements contained in those proposals. Proposals had also been put forth regarding the development of guidelines for equivalence. Taken together, the Special Session had enough material to take the discussions further. It was important that the Special Session received as many substantive comments on the proposals tabled as possible as those comments would provide the basis for the Special session to meet its mandate by the last General Council meeting of the year, scheduled for 9 and 10 December 2002. Further consultations would be necessary to consider what to do with some of the specific proposals.

31. The Committee took note of the comments made.
