

Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 31 OCTOBER-1 NOVEMBER 2001

Note by the Secretariat

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its twenty-second meeting on 31 October-1 November 2001. The meeting was chaired by Mr. William Ehlers (Uruguay). The agenda proposed in WTO/AIR/1658 was adopted with amendments.

II. IMPLEMENTATION OF THE AGREEMENT

(a) Information from Members

Foot-and-mouth disease status – Information from the European Communities

2. Reporting on positive developments in the FMD situation, the representative of the European Communities stated that there had been no new disease outbreaks since 30 September 2001. Addressing the situation in the United Kingdom, it was noted that the majority of the 2,030 outbreaks had occurred before the end of April and that the last virus had been isolated on 25 September. The Netherlands, France and Ireland had been declared free of FMD without vaccination on 17 September by the OIE. The representative of the European Communities stressed that although the measures taken by EC member States had resulted in the swift containment of the disease, some Members continued to impose unjustified measures on EC exports.

Classical Swine Fever - Information from the European Communities

3. The representative of the European Communities stated that measures taken to control the outbreaks of Classical Swine Fever in Germany and Spain had successfully brought the disease under control. Transmission from the wild boar population was the most probable source of the two July outbreaks in Lower Saxony and three October outbreaks in Rhineland-Palatinate. Strict disease control measures, including pig movement restrictions, had been put in place along with measures to control and eradicate classical swine fever among the wild boar population. In Spain, 29 classical swine fever outbreaks had been reported between June and September – the last on 19 September. EC regionalization and national surveillance measures had been taken and, as a result of their effectiveness, regional restrictions were still applied in only three small areas of the province of Lerida. Epidemiological studies showed that the virus bore no resemblance to a previously detected EC viral strain and was thus of external origin.

Statement from Japan on BSE

4. The representative of Japan stated that a first case of BSE had been identified in a five-year old dairy cow on 10 September 2001. The cow was born in Hokkaido and raised on a dairy farm in Chiba Prefecture. Tests for the presence of BSE on dairy cattle born or raised on these farms had all proved negative. Tests for the presence of animal proteins on a total of 142 cattle feed manufacturing sites had also been negative. The route of infection had not thus far been identified. As of 18 October, the Ministry of Health, Labour and Welfare had started screening cattle at slaughterhouses and taken measures to ensure the incineration of all specific risk materials (SRMs). The Ministry had also instructed food manufacturers to replace SRMs used in food products and to withdraw products from sale if they used SRMs that companies could not verify as coming from BSE-free countries. Provisional restrictions on the importation and domestic use of processed animal proteins, had been imposed (G/SPS/N/JAP/71). Consideration had also been given to revising quarantine controls on processed animal proteins not only on the basis of BSE cases in a country, but also on other relevant information. In the absence of an OIE BSE-status list, the representative of Japan informed the Committee that his Government would draw up its own list.

(b) Specific Trade Concerns

(i) New Issues

EC transitional TSE measures – Concerns of Canada

5. The representative of Canada expressed concern about loss of access to the EC market for Canadian exports of pet food, live bovine animals, embryos, ova and tallow exports in the wake of the 1 October adoption of transitional TSE measures by the European Communities. These measures had the effect of unjustifiably pushing what was a domestic EU problem onto international markets. Recalling earlier criticism of the arbitrary nature of the EC's review process as it applied to third countries, the representative of Canada stated that the EC regulations classified countries according to four levels of risk, but applied only two levels of risk management. According to the OIE criteria, Canada was BSE-free, yet Canadian exports faced identical trade restrictions to EC member States in which BSE was prevalent. These market access problems would be further compounded by the EC animal waste regulations, due out next year, which threatened to prohibit the few remaining products of animal origin that Canada could still export to the European Union. The representative of Canada requested that the European Communities remove Canada from the scope of application of these measures.

6. The representative of the United States stated that his government shared many of the same concerns and trade effects as Canada. The European Communities was applying stringent measures to countries that were either not affected by the disease or which had significantly different risk factors. This approach lacked scientific justification and ran counter to the existing international standards regarding BSE. Trade from the United States was unjustifiably disrupted by the transitional measures which should be suspended until the final country classification was complete. The United States also had concerns regarding the methodology and for the information gathered on the United States for the Geographic BSE risk (GBR) assessment. As no case of BSE had been reported in the United States and the extensive national control measures were in place, the US representative hoped his country's final classification under the new EC regulation would not require SRM control measures for exports. Finally, he stressed that the EC GBR was not equivalent to an international standard and had no more standing than any other WTO Member's legislation under the provisions of the SPS Agreement.

7. The representative of the European Communities explained that the BSE country classification exercise had not been replicated by any other Member or by the OIE. All the

procedures followed and opinions issued had been peer reviewed and made publicly available. The methodology used went beyond incidence and was based on risk assessment. Since the geographical BSE risk assessment was not the only element considered in arriving at the final country classification, it was not possible to predict the final risk classification of countries.

8. To enable trading partners time to comply with this regulation, the European Communities had established transitional measures between 1 July and 30 September, laying down import conditions for products of bovine, ovine and caprine origin. An exemption was made for countries classified in Category one (presence of BSE unlikely). As neither Canada nor the United States were included in Category one at present, these rules applied. From 1 October, the transitional measures had been extended to cover certification of other products of animal origin including raw materials for animal feedstuffs, rendered fats, gelatine, pet food, bone and bone products. For live bovines, embryos and ova, certification of a mammalian to ruminant feed ban was required along with traceability for bovines identifying the dam and herd of origin. Exemption was again made for countries in Category one. Pet food was included within the scope of these comprehensive measures to protect consumers' health from BSE. At the heart of these control measures were prohibitions on the use of mechanically recovered meat and the use of specified risk materials.

(ii) Issues Previously Raised

Japanese measures relate to fireblight – Concerns of Japan

9. The representative of the United States reported on bilateral discussions on Japan's quarantine procedures on the shipping of western US apples. Joint scientific research demonstrated that mature symptom-less fruit was not a pathway for transmission of fireblight, however, a mutually acceptable technical solution had not been reached. The United States was considering what further steps, including dispute settlement, it could take on this matter.

10. The representatives of the European Communities and New Zealand highlighted their concerns over Japan's fireblight restrictions. Based on the available scientific evidence, New Zealand considered that Japanese fireblight restrictions on US apples were not justified. New Zealand would also seek bilateral discussions with Japan on its importation requirements for apples.

11. The representative of Japan stated that a sound scientific basis was indispensable in its technical evaluation of its fireblight measures. In order to complete this technical evaluation, additional information had been requested from the United States at a bilateral meeting on 25 October. Further bilateral contacts between the US and Japanese experts were considered appropriate.

EC restrictions on the use of fishmeal – Concerns of Peru

12. The representative of Peru indicated that the European Communities recognized that there was no scientific evidence demonstrating that BSE could be transmitted through fishmeal. However, the European Communities maintained fishmeal restrictions to address an internal problem of the risk of cross-contamination and fraudulent practices within the Communities. Peru considered the fishmeal restrictions to be disproportionate, unscientific and an unjustifiable barrier to trade. In view of the deleterious effect the restrictions were having on Peru's fishing industry and exports, he requested that the European Communities lift its restrictions as soon as possible.

13. The representative of Chile supported the comments made by the representative of Peru and noted that applying the same restrictions on fishmeal as for meat and bonemeal had no scientific basis nor was it consistent with the recommendations of the OIE or WHO. He stated that the restrictions were discriminatory and the issue at hand was not the trade effect on exports, but the scientific basis

for the EC measures. Furthermore, given that the risk of cross-contamination arose at the destination and not at the point of origin, the measures were unjustified. Chile was also concerned over the length of time that the provisional measure had been in place and the suggestion that a new diagnostic test for the presence of animal proteins in feed would need to be developed before the measure could be rescinded. Chile would explore all options available under the SPS Agreement to have the restrictions lifted.

14. The representative of the United States expressed concern that the European Communities was applying restrictive trade measures against countries that were not affected by BSE or which had significantly different risk factors. Whilst the United States appreciated the need for restrictive internal EC measures on meat and bonemeal given past problems, the different risk situations among WTO Members warranted different actions. In this regard, the need for BSE control measures to reflect the different risk status of particular products and countries was underscored.

15. The representative of Iceland objected strongly to the EC measures on the use of fishmeal which were tantamount to an EC import ban fishmeal for animal feed. He stressed that that the restrictions were neither science-based nor proportionate to the risk involved. Why fishmeal had been targeted by EC Regulation 2000/766 and not also vegetarian animal feed meals was perplexing for Iceland. The EC regulations, for example on cleaning requirements for vehicles transporting fishmeal, treated fishmeal itself as a dangerous material. Iceland urged the European Commission and member States to implement immediately Council Regulation 999/2001, which did not include fishmeal within the scope of animal feed restrictions.

16. The representative of the European Communities clarified that the legislation in question was a provisional measure that covered the internal use of fishmeal. As all producers were requested to fulfil the same conditions, the measure was not discriminatory. The purpose of the regulations was to prevent the introduction of feed material that may have been cross-contaminated with animal protein containing infectious BSE agents. A derogation allowed the use of fishmeal in feeds for non-ruminant animals provided certain strict production and handling conditions were met – including production in dedicated fishmeal plants and storage away from farms where ruminant animals were kept (except where measures to prevent cross-contamination had been taken). Current laboratory techniques had limitations in detecting the presence of animal proteins in feed, and the development of a reliable, but less laborious detection test would be a decisive element when reviewing the feed ban. Efforts were being made within the Communities in this regard.

17. The representative of the European Communities also questioned claims of an adverse impact on trade of the EC regulations. Although an EC request for data on trade effects had been made at the last Committee meeting, no such information had been received. Fishmeal was now the only animal protein that was fed to pigs and poultry and as such it had gained a virtual monopoly in a profitable industry. Eurostat data on tonnages and average prices showed that after adoption of the measure on 1 January 2001, Chilean exports in the first six months of 2001 had doubled and increased 35 per cent in price compared with the same period in 2000. Prior to 2000, exports from Peru had been stable while an abnormal peak in exports took place in 2000. In 2001, exports from Peru had also increased although not by as much as exports from Chile.

Argentina's BSE import restrictions on dairy products – Concerns of the European Communities

18. The representative of the European Communities recalled that he had first raised the issue of Argentina's import restrictions on dairy products in the SPS Committee in July 1999. Argentine restrictions went beyond international standards on BSE and ignored EC Scientific and Veterinary Committee and OIE advice that there was no evidence of BSE transmission via milk from healthy animals. Despite statements from the Argentine authorities that dairy products would be reclassified, Argentina continued to place restrictions on baby food and Baileys from Ireland; Belgian chocolate;

bovine semen and dairy products from the Netherlands; milk powder and cheese from Germany, Swedish cacao oil butter; and dairy products from the United Kingdom and France. Furthermore, the European Communities fundamentally disagreed with the consideration of dairy products as low-risk, as distinct from a no-risk, products and objected to negotiations on certificates on the grounds that this was unscientific. The EC representative also criticized the lack of transparency in the Argentine measure. In view of Argentina's continued refusal to reconsider its measures, the European Communities was considering eventual recourse to Article 12.2 consultation procedures on the basis of violation of Article 5.

19. The representative of Argentina outlined the legislation in force which classified dairy products as low risk. As such, Argentina did not maintain any restriction on EC imports of dairy products. The only restriction on EC dairy products was that they be certified as coming from establishments where no case, or suspected case, of BSE had been recorded. A counter proposal from EC member States that milk come from establishments where there had been no case of BSE was currently being studied to see if it would be equivalent to the certification required by Argentina. Given the EC policy of slaughtering all herds where a case of BSE had been recorded, the Argentine delegate did not see why it was not possible to certify that milk came from a herd free of BSE. On the question of transparency, he pointed out that all standards could be consulted on the web page of the Official Bulletin. As Argentina continued to show good will in resolution of this question, he stated that recourse to Article 12.2 consultations was not necessary.

EC concerns on FMD import restrictions.

20. The representative of the European Communities reminded the Committee that in July he had reported on unjustified trade restrictions in response to the outbreak of FMD in the Communities. Measures had been taken against all EC member States and not just those affected. In some cases the ban on EC products went beyond the OIE guidance and included non-susceptible products such as fish, poultry, cereals, seeds and vegetables. Furthermore, not many of these measures had been notified. Continued Australian restrictions against Spain, Greece, Luxembourg and Portugal affected EC member States in which there had been no outbreaks of FMD and were based on the failure of these countries to reply to an Australian questionnaire. Australia had lifted import restrictions against countries where an outbreak had taken place, but that had replied to the questionnaire. Canadian and US restrictive measures against Greece also affected a member State where no FMD outbreak had taken place and that had been declared FMD free in the meantime. Continued US, Japanese and Mexican restrictions against France, the Netherlands and Ireland were also brought to the Committee's attention. The representative of the European Communities thanked New Zealand, Indonesia, Ukraine and Switzerland for lifting restrictions against member States after they had regained FMD free status. Where he felt that core principles of the SPS Agreement were at stake, such as regionalization and proportionality or Articles 2, 3 and 5, he would continue to bring unjustified trade barriers to the attention of the Committee and press for their removal. Where trade measures went beyond what was necessary, trade could be affected in a permanent way.

21. Based on information from the OIE, EC member States and other sources, the representative of Australia reported that his country was now able to recognize all member States, other than the United Kingdom, as FMD free. The representative of Japan stated that bilateral consultations were continuing with France, Ireland and the Netherlands.

22. The representative of the United States reported that an EC-wide ban had been put in place in early March in response to the outbreak of FMD. A risk assessment had subsequently been undertaken which had categorized member States according to risk. For those EC member States categorized as low risk, the import ban was removed. The primary element in evaluating risk had been the occurrence of an FMD outbreak. Import restrictions continued to apply to the United Kingdom, Netherlands, France and Ireland. The United States recognized that the disease outbreaks

in these countries were limited and controlled and no remaining technical concerns existed. The United States was taking the necessary regulatory actions to publicize these proposals in the Federal Register. Concerning the situation in Greece, the product ban pre-dated the current FMD outbreak and was based on a long standing, separate issue.

23. The representative of Canada recalled that the main product imported from Greece was cheese. Greece had only recently expressed an interest in exporting meat products to Canada, and the request was being evaluated. Trade in meat products had been unaffected by the Canadian FMD ban.

Japanese restrictions on importation of sugar cane tops – Concerns of Indonesia

24. The representative of Indonesia reported on progress made in resolving his country's concerns over Japanese import restrictions on sugar cane tops. In addition to informal bilateral consultations, Indonesia had also provided detailed information requested in a questionnaire from Japan. His country was ready to furnish all necessary documentation, as any protraction of this problem would have detrimental effects on the Indonesian economy. In this regard, he noted that Indonesia had been declared FMD free by the OIE since 1986.

25. The representative of Japan stated that at the bilateral meeting the day before the Committee meeting certain misunderstandings had been cleared up. He looked forward to receiving such information as was necessary to resolve this problem.

Australian import risk assessment for table grapes – Concerns of the United States

26. The representative of the United States informed the Committee that US and Australian officials had recently held a constructive bilateral meeting to discuss quarantine procedures for the shipment of Californian table grapes to Australia. They had agreed to continue the dialogue to work toward a resolution of the outstanding issues. The representative of the United States resolved to keep the Committee informed on progress made on this issue. Speaking on behalf of ASEAN countries, the representative of the Philippines expressed his interest in this issue for systemic reasons and expressed his hope that an appropriate solution could be found soon. The representative of Australia expressed her confidence that a mutually acceptable solution could soon be found with the United States.

EC measures on maximum levels of aflatoxins – Concerns of Bolivia on the impact for its Brazil nut exports

27. The representative of Bolivia recalled that concerns over EC measures on maximum levels of aflatoxins in Brazil nuts had first been raised in September 1998. The European Communities had still not presented a risk analysis to justify the maximum levels for aflatoxins in Brazil nuts, nor applied the special and differential treatment provisions of Article 10.1 and 10.2 of the SPS Agreement. Furthermore, no justification had been given why similar products were permitted higher aflatoxin levels. Noting that the measures affected one of the main agricultural exports of Bolivia, the representative of Bolivia highlighted the concerns expressed by the Bolivian House of Parliament as to the low international price of Brazil nuts, the possible collapse of the main productive activity of a vast region of Bolivia and the accompanying risk of social upheavals. The EC measures had destabilized the Brazil nut market as importers feared that they would have to destroy loads that did not respect the aflatoxin levels – a fact that was borne out by Bolivian Statistics' Institute data.

28. The representative of Bolivia also clarified that the amount of technical assistance received by her country was not US\$17 billion as reported at the last Committee meeting. Promises of technical assistance were not of any benefit for exporters and producers; the best assistance that could be offered was the elimination of the EC aflatoxin measure that penalized Brazil nuts. In this regard, the

Bolivian authorities wished to see a solution based on acceptance by the European Communities of a scientific certificate.

29. The representative of the European Communities indicated that a formal letter on this question would be presented to the Bolivian delegation later that day. The issue related to a measure which had been examined in a JECFA working group. Prolonged bilateral consultations had taken place prior to the entry into force of the measure and expected trade concerns had not realized. Bolivia was one of the main beneficiaries of EC development assistance – a key goal of which was to ensure that they could respect the EC standards. The representative of the European Communities stressed that discussion of the risk assessment had taken place on numerous occasions in the SPS Committee and in JECFA.

30. The European Communities shared many of the concerns as to the importance of sustainable Brazil nut production for social and economic reasons. The shared concerns guided the direction of the EC technical assistance and food security programmes. The European Communities was cooperating closely with the Bolivian authorities in applying technical assistance funds and was ready to redouble its efforts, although laboratory capacity did not appear to be the problem. No excessive levels of aflatoxins had been detected by the EC rapid alert system in Bolivian Brazil nuts in over a year, although the same could not be said of exports from other Members. Statistics showed that since 1996, there had been continuous growth in Bolivian Brazil nut exports to the European Communities. Exports had risen in value from Euro 9 million to Euro 16 million.

31. At a bilateral meeting in Brussels, Bolivian and EC officials discussed the options of certificates issued by the Bolivian authorities on control at origin. EC technical officials had identified at least three private Bolivian laboratories able to carry out aflatoxin content tests. A national certification and accreditation mechanism was being implemented which would allow the three laboratories to issue internationally recognized certificates so that controls were carried out by the Bolivian authorities prior to export. However, no follow-up information had been received from the Bolivian authorities on this possible solution.

(c) Update on specific trade concerns

32. The Secretariat announced its intention to update document G/SPS/GEN/204/Rev.1 on specific trade concerns raised in the SPS Committee for the next meeting in March 2002. The document was first circulated in September 2000 and revised in March 2001. The Committee had requested that the document be updated each year. To facilitate the update, Members who had raised items for which no solution had been reported were asked to provide new information, either orally or in writing.

33. The representative of Hungary noted that concerns related to Turkey's FMD ban on imports of live cattle and beef meat, raised in the Committee meeting of June 2000, were still outstanding. On the other hand, a mutually acceptable solution had been found with regard to the Slovak Republic's certification requirements for apple imports.

34. The representative of Brazil informed the Committee that following two technical visits by EC officials to evaluate Brazilian control systems, emergency measures on dioxin in citrus pulp from Brazil, taken in 1998, had been lifted. On gelatin imports, intense bilateral consultations on Brazilian processing methods and controls had resulted in the European Communities lifting its restrictions on 13 June 2001.

35. The representative of Hong Kong, China reported that no developments had occurred related to the US interim rules on solid wood packaging material.

36. The representative of the Philippines stated that an update had been sent to the WTO Secretariat on Australia's restrictions on sauces containing benzoic acid.

37. On Australian quarantine requirements for chicken meat, the representative of Thailand noted that the Department of Livestock Development was finalising its risk analysis on Infectious Bursal Disease Virus (IBDV). A public hearing would be held before the analysis was presented to Australia. The OIE in May 2001 had agreed to conduct research on appropriate heat treatment to inactivate the IBD virus in poultry.

(d) Consideration of specific notifications received

Romania's notification of FMD measures (GSPS/N/ROM/3) – Concerns of Argentina

38. The representative of Argentina questioned the justification provided under point 6 of the notification by Romania of its emergency measure which had made reference to food safety and the need to protect humans from animal diseases. It was known that FMD had no effect on human health, hence the justification of the measure on food safety grounds raised systemic issues. Although mention of the objectives did not in any way modify the scope of the measures, Argentina sought clarification from Romania as to the basis on which the measure was declared and suggested that animal health was the only appropriate basis for the measure to be taken.

39. The representative of Romania noted that FMD was one of the most contagious animal diseases and caused important economic losses. Transmission of FMD could arise through animate vectors such as humans. Romania had been free of FMD for more than twenty years and had stopped vaccination since 1991. The crisis generated by this disease in eastern Europe and Asia had led the Romanian National Sanitary and Veterinary Agency to take precautionary measures on a temporary basis only on products receptive to FMD. Poultry and poultry products, fish and fish products, dairy products and canned products had been exempted from this measure. Although Romania was aware that FMD prevention measures were intended mainly to protect animal health, the reference in Romania's notification to the objective and rationale did not amplify or modify the scope of the emergency measures in any way.

EC regulations on genetically modified food and feed – Concerns on the part of the United States

40. The representative of the United States highlighted concerns over the EC TBT notification of its 25 July proposals on traceability and labelling of agricultural biotechnology products (G/TBT/N/EEC/6 and EEC/7). The European Communities had not notified these proposals under the SPS Agreement, yet the EC proposal made clear that it was intended to address "unforeseen adverse effects to human health and animal health". These issues related directly to the SPS Agreement and the representative of the United States encouraged the European Communities to provide a SPS notification as soon as possible.

41. The representative of Argentina shared the concerns of the United States regarding the EC TBT notifications. Genetically modified food did not affect health and the compulsory labelling required by the EC measure was not in Argentina's view consistent with the standards contained in the TBT Agreement. Argentina sought clarification as to whether or not the labelling requirements extended to the compulsory labelling of pharmaceutical products for human or animal use which could have been made with genetically modified ingredients.

42. The representative of Canada supported the United States in its concerns given that one of the purported objectives of the EC regulations concerned human health. If the measures were notified under the SPS Agreement, then different questions could be asked to those raised in the TBT Committee. If, as the EC delegate appeared to suggest, the labelling requirements were intended

merely to cover consumer information needs, and not food safety or human health objectives, then discussion in the SPS Committee would not be necessary. Both Canada and the United States sought clarification as to whether the draft EC regulations covered food safety or human health.

43. The representative of the European Communities observed that a TBT Committee meeting had been held three weeks prior to the SPS Committee. Requests made to the European Communities to prolong the consultation period had been accepted and this period would run until the end of the year. The main objective of the regulations was to make sure that consumers were duly informed of the products they buy. Two other key issues were also identified: traceability and labelling. The EC representative stated that discussion should continue in the TBT Committee, especially since delegations had raised questions in that forum, and the European Communities reserved its position on any other matters until the comments in the TBT Committee were known. While the European Communities was not against discussing these matters in any other fora, no decision had been taken as to whether this was necessary.

44. Replying to Argentina's concerns, the EC representative stated his understanding that the labelling of pharmaceuticals containing GM ingredients was covered by different legislation.

EC notification G/SPS/N/EEC/131 – Concerns of Ecuador

45. The representative of Ecuador stated that a series of questions had been submitted to the European Communities in September 2001 on notification G/SPS/N/EEC/131. These questions, contained in document G/SPS/GEN/278, were with regard to the scientific grounds for the measure, the risk analysis, the methods to be used at entry ports, special treatment for developing countries, and possible alternative measures.

46. The representative of Israel noted that the proposed amendments raised commercial concerns for Israel in relation to a change in inspection procedures that could detrimentally affect deliveries to its major export market. Distribution of Israeli flowers took place through Dutch bourses - although the point of entry could be elsewhere in the European Union. If, as the amendments foresaw, inspection was to take place at the point of entry and then further transportation had to be organized to the Dutch bourses, the quality and the prices of delivered flowers would suffer. An additional concern related to the manpower implications for the point of entry inspection system which would require officials to move between points of entry to undertake the inspections.

47. The representative of Kenya shared the concerns of Ecuador and Israel and looked forward to receipt of a response to his concerns from the European Communities within a few weeks time.

48. The representative of the European Communities recalled the scope of the proposed amendment that was being made to annexes of Council Directive 2000/29/EC on protective measures against the introduction and spread within the European Communities of organisms harmful to plants or plant products. The amendment covered four non-native harmful organisms that were regularly intercepted on certain commodities including cut flowers: *Amauromyza maculosa*, *Bemisia tabaci* (non-European populations), *Liriomyza sativae* and *Thrips palmi*. At present, most of the cut flowers in question were not yet subject to plant health checks, but due to the continuing interceptions of the aforementioned organisms, it appeared that these cut flowers were a pathway for the organisms in question. As such, control measures needed to be strengthened. In order to assess the comments made by other Members, the proposed date of entry into force of the draft amended regulation had been deferred. Further information would be provided to Members in due course.

(e) Matter relating to the operation of transparency provisions

49. The Chairman reported on an informal meeting that had taken place on transparency and notification prior to the Committee meeting. At the meeting, concerns had been raised by Brazil over transparency requirements for measures that may affect products of interest to developing countries whose product scope or country coverage has been widened since they were first notified. These concerns stimulated debate as to where responsibility lay for identifying measures of interest to developing countries. While Brazil suggested that responsibility lay with the importing Member, several other Members stressed difficulties in identifying products of interest to specific Members, including in situations where horizontal regulations touching many product categories were involved - a view also shared by the Secretariat. One Member highlighted the Secretariat's obligations in paragraph 9 of Annex B to the Agreement. The Secretariat outlined how this provision was being implemented through document dissemination, both in paper and electronic formats, and by monthly lists of notifications.

50. Some Members stressed that emergency notifications should also be included within the scope of a review of notification requirements and that all Members should be alerted, not just developing countries, when a measure was likely to affect their exports. Another delegation observed that except in emergency situations, it was very difficult to discern if a particular country's exports were likely to be affected. Additionally, several delegations stressed that it was essential to know if the existing transparency provisions were being used correctly before any new obligations were added.

51. A detailed submission on transparency and notifications was made by New Zealand. The document, G/SPS/W/112, included specific suggestions on how to tackle revisions, corrigenda and addenda, what to do when measures were notified under both the SPS and TBT Agreements, and electronic document interchange protocol. The representative of New Zealand invited other Members to provide their own comments on these issues.

52. The Secretariat suggested that a review might also look at the issue of multiple enquiry points and notification authorities within a single Member. Further issues that might be considered included: providing further guidance on the type of measures that should be notified and the insertion of boxes to specify where an international standard originated (Codex, the IPPC or the OIE). Another point stressed was just how differently Members approached such problems as amending existing notifications. The Secretariat requested that Members keep national links from the WTO website up-to-date. Some Members stressed the problems faced by developing countries with limited access to modern information technology and limited financial resources with which to participate in standards setting work.

53. A further informal session before the March formal Committee meeting was scheduled and Members were invited to provide written submissions on revisions to the notification requirements by the end of the year.

54. Discussions also covered Article 11 of the Committee's Decision on Equivalence (document G/SPS/19) which instructed the Committee to revise the recommended notification procedures to provide for the notification of the conclusion of equivalence agreements. It was suggested that the procedures adopted by the TBT Committee for notifying bilateral agreements might provide a useful model. Another Member stated that the matter might be resolved by the simple addition of a number of boxes to the notification form. The question was raised as to what constituted an equivalence agreement and what should be notified. To assist this discussion, Members were encouraged to provide written examples of equivalence agreements to the Secretariat by the end of the year.

55. The Chairman noted that notifications received since the last Committee meeting were summarized, on a monthly basis, in G/SPS/GEN/273, G/SPS/GEN/277 and G/SPS/GEN/283. The most recent list of Enquiry Points had been circulated as G/SPS/ENQ/12 and Addendum 1, and the latest list of National Notification Authorities had been circulated as G/SPS/NNA/2 and Addendum 1.

III. THE SPS AGREEMENT AND DEVELOPING COUNTRIES

(a) Implementation of the provisions for special and differential treatment

56. The Secretariat reported that on 9 October 2001, a second high level meeting, chaired by WTO Deputy Director-General Miguel Rodriguez-Mendoza, was held with the OIE, FAO, WHO and World Bank. The meeting continued the discussion begun in February 2001 on the participation of developing countries in standards-setting organizations and included the World Bank for the first time. The meeting agreed to deepen and extend existing cooperation efforts both at the policy and technical levels, in particular with regard to coordination of technical assistance activities. An agreement was also reached to develop a joint communiqué to be issued at the Doha Ministerial Conference.

(b) Equivalence – Article 4

57. The Chairman recalled that special sessions of the SPS Committee had been convened on 18-19 September and 24 October. The Chairman thanked Members for their hard work and flexibility in arriving at a Decision on the Implementation of Article 4 (G/SPS/19) and stated that the task that now lay before the Committee was to develop a work programme.

58. The Chairman reported on the discussions that had taken place at the informal meeting of the SPS Committee of 30 October 2001. Argentina had presented a paper clarifying some of the concepts contained in the Decision, including how "historic trade" should be taken into account in determining whether an accelerated procedure could be applied to recognize equivalence, as set out in paragraph 5 of the Decision. The Chairman recalled that the United States had already flagged the need to clarify what constituted "historic trade" and what was an "accelerated procedure". Other Members suggested that paragraph 6 of the Decision also needed to be clarified. This paragraph stated that the consideration of a request for the recognition of equivalence should not in itself be a reason to disrupt or suspend on-going imports. One Member raised the need to discuss more precisely what "on-going imports" meant in practice, while another raised the need to discuss what would be done in emergency situations.

59. Paragraph 13 of the Decision referred not only to the development of a work programme, but also to the need to review the Decision in light of the relevant work undertaken by the three sister organizations. Furthermore, paragraph 10 of the Decision referred to encouraging the standard-setting organizations to continue their work in the area of equivalence, and to keep the SPS Committee informed of these activities. The Chairman stated his intention to send a letter to the three organizations to draw their attention to these aspects of the Decision. The Committee agreed to invite the observer organizations, on an ad hoc basis, to participate in future informal meetings on transparency.

60. The Chairman encouraged Members to identify the issues they would like to see considered in the work programme, and to provide background papers or proposals, by 31 December 2001. On the basis of the submissions, the Chairman would put together a proposal for a future work programme, to be submitted to Members in advance of the next meeting of the Committee.

IV. TECHNICAL ASSISTANCE AND COOPERATION

61. The Chairman recalled that at the 9 July 2001 meeting of the SPS Committee, the Secretariat had been requested to circulate a new questionnaire on technical assistance that would focus on ascertaining developing country requirements. This task had been completed and the Chairman encouraged Members to complete and return the new questionnaire (G/SPS/W/113) before 1 January 2002. In completing the questionnaire, Members were requested to pay particular attention to the note prepared by the Secretariat on typology of technical assistance (G/SPS/GEN/206). The Secretariat stated that a straightforward and brief format had been used for the new questionnaire so as to encourage replies from developing countries.

62. The representative of Chile introduced a paper on technical assistance (G/SPS/GEN/287). Concentrating on the document's conclusions, the representative stated it was important to undertake a technical assistance diagnosis to define the recipient's capabilities and needs. Once the diagnosis had been completed, priorities could be established in each of the thematic areas, information provided on experts and donors that could offer assistance and a programme of technical assistance designed that would include follow-up programmes.

63. The representative of Indonesia highlighted the importance of taking into account the differing capacities and human resources of developed and developing countries in the SPS area. A further discussion of how best to respond to developing countries' demands was requested. Indonesia considered technical assistance to be an integral part of the SPS Agreement, necessary to bridge differences in protection levels. As such, it was important to see this provision operationalized through further technical assistance in the development of human resources, national infrastructure and training of trainers.

64. The representatives of Canada and Argentina welcomed the paper by Chile. Canada stressed the need for a focused discussion to respond to the particular demands of developing countries in this area and encouraged developing countries to return completed questionnaires. The representative of Norway stated that his authorities were looking into what assistance could be offered to developing countries in the SPS field. One problem in this regard was the low priority accorded these issues in beneficiary countries. Given that there was competition between alternative uses for the scarce technical assistance resources available, this often led to problems in raising funds for SPS projects.

65. The representative of New Zealand shared the views of other Members on the importance of technical assistance and endorsed the Secretariat questionnaire. New Zealand informed Members of technical assistance provided under the auspices of the Asia Pacific Economic Community on the SPS and TBT Agreements. As part of the project, APEC had funded the participation of APEC officials at the TBT and SPS Committee meetings.

66. The representative of the United States reported that in August 2001, the Food and Drug Administration and the government of Singapore had co-sponsored a conference in Singapore on food safety. The conference was one of five organized under the US Food Safety Outreach Programme. Also in August 2001, the Department of Agriculture undertook a training programme in Sub-Saharan Africa focusing on SPS issues as part of the Africa Trade and Investment Programme. In September 2001, the Department of Agriculture also organized a workshop on Codex risk analysis procedures in Puerto Rico for Spanish speaking countries.

67. The representative of Australia informed the Committee of a recent technical assistance initiative with ASEAN on biosecurity. The project encompassed areas identified as important at the July 2001 SPS Committee meeting, and illustrated the continued partnership with ASEAN in the area of capacity building,

Secretariat

68. The Secretariat highlighted technical assistance activities undertaken since the July SPS Committee meeting. In August, a national seminar held in Kenya had highlighted the problems of internal coordination faced by many developing members. For Members with no delegation in Geneva, a week of briefings on WTO issues had been held in early September. Also in September, the Secretariat had attended a seminar organized by IICA in cooperation with the Canadian Food Inspection Agency. The Secretariat commended IICA on its approach and organization of this seminar which was part of a two year technical assistance programme aimed at building capacity in food safety policies in the Caribbean, Central and South America (see G/SPS/GEN/286).

69. Further requests for technical assistance had been received from Angola, Oman, United Arab Emirates, People's Republic of China and Thailand. The Secretariat planned to attend the FAO/WHO global forum for food safety regulators in Morocco. As part of the inter-agency discussions held on 9 October, a technical group meeting was scheduled to discuss better coordination between OIE, Codex, IPPC, FAO, WHO and the World Bank on technical assistance activities.

70. The Secretariat also informed the Committee that an interactive CD rom on the SPS Agreement would be ready by the end of the year. The purpose of the CD rom was to provide information to officials, particularly from developing countries, who were working on SPS issues but who had not had access to training in the past.

71. The representative of Kenya expressed his gratitude to the Secretariat for the organization of the national seminar and stated that it had helped the Kenyan authorities in addressing questions of internal organization.

Observer Organizations

72. The representative of the World Health Organization stressed the importance of focused, timely technical assistance for developing countries. The WHO offered technical assistance of various kinds, such as Food-Borne Disease (FBD) surveillance and response to reduce uncertainties in risk assessment and support selection of appropriate prevention and control strategies. On 26-29 November 2001, a consultation would be held in Geneva, on global strategies for FBD surveillance as part of WHO's comprehensive strategy for strengthening national capacities for FBD surveillance in developing countries. Eight training courses had been organized in South East Asia, Central America, South America, China and the Mediterranean for laboratory microbiologists. WHO also offered training workshops on developing surveillance systems for human TSEs upon request by member states. On 10-14 September 2001, with the cooperation of the WTO Secretariat, a training course was held on the public health implications of the multilateral trade agreements, including the SPS Agreement. Training materials used during this training course would soon be made available on CD-rom.

73. Technical assistance activities were also carried out by the six WHO regions. The Pan American Institute for Food Protection and Zoonoses and Pan American Health Organization provided technical and financial support to the Codex Coordinating Committee for Latin America and the Caribbean so as to enable effective participation. Virtual meetings of national contact points using a free Internet site had been organized in preparation of Codex meetings. INPPAZ/PAHO had also developed an electronic tool for maintaining databases on national food legislation and standards, which enabled a comparison of food legislation among different countries as well as with Codex standards. The WHO Regional Office for the Americas had promoted the Caribbean Food Safety Initiative to assist the English-speaking Caribbean countries to meet their obligations under the WTO SPS Agreement. In the WHO Region for the Western Pacific, various workshops on food safety and Codex had been held in collaboration with the FAO. Many of the Pacific Island countries had

identified a need for greater understanding of the implications of the WTO and its trade agreements. China had also noted the need for WHO to provide information, technical advice and guidance on the WTO SPS Agreement and had suggested that WHO should further strengthen its collaboration with WTO and other international organizations. In the WHO Region for the Eastern Mediterranean technical assistance had also been provided for a review of national food legislation in member states with a view to harmonizing them with Codex standards, guidelines and recommendations. Activities were also being planned to assist countries in the region to develop a full understanding of the content and implications of the SPS and TBT agreements at national level, to become more actively involved in the work of the Codex Alimentarius Commission and to involve the Ministries of Health in this process. Finally, the global forum for food regulators, initially scheduled for October 2001 had been rescheduled to 28-30 January 2001. Further details on WHO technical assistance were provided in G/SPS/GEN/290.

74. The representative of Codex recalled that technical assistance was provided through Codex's parent organizations (the FAO and WHO). At the last Codex meeting, agreement had been reached on the establishment of a WHO/FAO Trust Fund to facilitate the participation of developing countries in the work of Codex. Work was on-going on arrangements for the Trust Fund and would be specifically discussed at the next session of the Codex Executive Committee in June 2002 and a final decision taken by the Codex Commission in 2003. Practical discussion was also underway on the proposal for the FAO to establish a Global Facility on food safety and quality for least developed countries.

75. The representative of the International Plant Protection Convention (IPPC) stated that the FAO's Umbrella programme, designed to assist countries in understanding and implementing their Uruguay Round Commitments, was moving into a second phase in which the focus was turning to specific regions, countries and issues. As this phase had only recently begun, there were still opportunities for countries to express their needs in this regard. The IPPC Secretariat had been active in workshops in South Africa, Zambia and Senegal. With respect to initiatives of the Interim Commission on Phytosanitary Measures, work on assisting countries to inventory their capacity needs through the phytosanitary capacity evaluation was enjoying success with over 20 countries involved. One concern raised by the IPPC delegate was that the increasing demand for projects had created problems in identifying experts who could be used on projects, particularly for risk analysis. The list of national experts from the European Union and North America, tabled at the Committee, had been helpful in identifying professionals in the past, but the IPPC was facing increasing difficulties in matching experts to projects - most notably for a project on South American leaf blight in South East Asia. Members were invited to identify risk analysis experts to fill this gap.

76. The representative of the Inter-American Institute for Cooperation on Agriculture (IICA) indicated that the 30 September and 5 October 2001 conference referred to by the Secretariat was part of the second module of the executive leadership series on food safety. The purpose of the two year executive series programme was to address critical topics, to enhance leadership skills and to build community among the participants. As part of the process each of the participants carried out a project under the guidance of mentors. Participants came from a variety of backgrounds, countries and both the private and public sector. The focus was on the entire food chain. Funding and support for this module was provided by the Canadian Food Inspection Agency, and involved many other countries and organizations. On 10-11 September 2001, a third symposium had taken place on equivalence between the northern and southern regions of the Americas. The symposium provided an informal forum for discussion between national experts from Canada, the United States of America, Mexico, Argentina, Brazil, Uruguay, Chile and Paraguay. The twelfth meeting of the informal consultative group of the agricultural negotiators of the Americas, organized by IICA and FAO, was held in Panama City on 28 August 2001. The participants discussed topics related to sanitary and phytosanitary measures, technical assistance, modernization of agricultural health and food safety services in the Andean countries, and the foot-and-mouth disease programme in Panama. Support had

also been provided to Mexico on its the agricultural health system, in controlling and preventing specific diseases, and early warning systems. With the United States Department of Agriculture, OIRSA and the governments of Nicaragua and Honduras, IICA had carried out a programme aimed at establishing and maintaining fruit flyfree areas. More details about IICA's technical assistance was contained in document G/SPS/GEN/286.

77. The representative of OIRSA recalled that it was an international organization devoted to provide support to the plant and animal health of its eight member countries. Technical assistance in the phytosanitary area included control of the pine beetle (*Dendroctonus* spp.) in Nicaragua and Honduras; an economic study for a regional program for eradication of medfly and integrated management of other fruit flies in Central America, Belize and Panama; and follow-up on the pink mealybug in Belize. In Panama, Costa Rica, Nicaragua and Honduras, action was being undertaken to establish Medfly-free areas with international recognition. OIRSA also participated actively in meetings of the Interim Committee on Phytosanitary Measures (ICPM) convened by the Secretariat of the IPPC. In the sanitary area, OIRSA had underway a regional project for the strengthening of sanitary surveillance for the prevention of FMD and BSE; meetings to deal with avian influenza and a project for the control and eradication of avian diseases; meeting of the Steering Committee for eradication of classical swine fever from the Americas; and vaccination of pigs in Nicaragua along with a risk analysis to detect the transmission level of the disease. A seminar on Epidemiology and Risk Analysis was held in El Salvador, in cooperation with the USDA Center of Epidemiology in Animal Health, as well as the 4th Meeting of the Ad-hoc Working Group on Risk Analysis of the OIE Office for the Americas. Work on standards harmonization in the fisheries area had progressed. After the earthquakes in El Salvador, OIRSA had provided the national authorities with an action plan to prevent food-transmitted diseases. The actions listed were described in more detail in G/SPS/GEN/281.

78. The representative of the International Trade Centre described a joint project implemented with the Commonwealth Secretariat (G/SPS/GEN/288). The purpose of the project was to provide a basis for identification of the technical assistance needs of developing countries, both in the immediate and long term period, for their improved and effective participation in international standardization activities and for developing effective national infrastructures for conformity assessment. Case studies had been conducted in Kenya, Mauritius, Uganda, Namibia, Jamaica and Malaysia. The resulting case studies would be published in a joint publication on TBT and SPS by the Commonwealth Secretariat and the International Trade Centre, lessons learned disseminated through regional workshops and focused technical assistance provided at national level.

79. The Committee agreed that an informal meeting on technical assistance should be held prior to the next regular Committee meeting.

V. MONITORING OF USE OF INTERNATIONAL STANDARDS

80. The Chairman noted that, in accordance with the agreed procedures (G/SPS/11), Members were requested to submit, at least 30 days in advance of each regular meeting, examples of what they consider to be problems with significant trade impact which they believe were related to the use or non-use of relevant international standards, guidelines or recommendations. As requested at the July 2001 meeting, the Secretariat sent a fax to remind Members of the deadline for submitting new items. A request had been received from South Africa regarding the OIE standard pertaining to African Horse Sickness (G/SPS/GEN/289). However, as the request arrived after the deadline, South Africa was invited to introduce the paper under agenda item 8 (Other Business).

VI. MATTERS ARISING FROM THE WORK OF OBSERVER ORGANIZATIONS

81. The representative of Codex reported that in October the Committee on Food Hygiene had met in Bangkok and concluded its work on the code of hygienic practice for fresh fruits and vegetables throughout the food chain. The code was proposed for adoption at the next session of the Codex Alimentarius Commission in 2003. Draft guidelines on the application of HACCP to small and less developed businesses had progressed to stage five (provisional adoption). It was expected that these guidelines would be finalized during the next Committee on Food Hygiene meeting. Principles and guidelines on microbiological risk assessment had been adopted in 1999, and work continued in the Food Hygiene Committee on developing similar principles and guidelines on microbiological risk management. Discussion had focused on how to advance the Committee's work on the basis of expert consultations, in particular the interaction between risk assessors and risk managers, and how risk assessment results could be integrated into Codex standards, guidelines and codes of practice. A specific FAO/WHO expert consultation on this question was proposed for Spring 2002. A specific expert consultation had already taken place on guidelines for the control of listerium sanctogenis and risk management measures. An extraordinary session of the Executive Committee of Codex had allowed texts not adopted at the Commission because of time constraints to be adopted at the intermediate level. The Codex Committee on Residues of Veterinary Drugs in Food would meet in the United States on 4-7 December. In February 2002, the reactivated Committee on Meat Hygiene would meet to revise codes of hygiene finalized in 1993. In the last week of February 2002, the Committee on Import and Export Certification systems would meet in Australia and was expected to finalize guidelines on the judgement of equivalence. In March, a further meeting of the Intergovernmental Taskforce on Foods Derived from Biotechnology would be held in Japan at which the risk analysis principles should be finalized.

82. The representative of the WHO noted that a meeting of the global environment monitoring system/food contamination monitoring and assessment programme (GEMS/Food-Euro) contact points had been held on 10-12 July 2001 in Berlin, Germany, and discussed the re-establishing of data collection and cooperation in the area of food contamination monitoring. The Joint FAO/WHO Expert Meeting on Pesticide Residues (JMPR) had met on 16-25 September 2001 in Geneva and evaluated 26 pesticides, including two new compounds and seven that were subjected to full re-evaluation. The second international total diet workshop would be held on 5-15 February 2002 in Brisbane, Australia, with the purpose to develop procedures and to train staff for Total Diet Studies in member states. A joint FAO/WHO expert consultation on Risk Assessment of Microbiological Hazards in Foods had been held on 23-27 July 2001 on campylobacter, and an expert consultation on the risk assessment for Enterohemorrhagic *Escherichia coli* would be convened in early 2002. A consultation on methods and principles for the monitoring of anti-microbial usage in food animal production for the protection of human health had been held in Oslo in September. An expert consultation on foods derived from biotechnology was also held on 24-28 September in Geneva to consider the scientific aspects of safety assessments of foods derived from genetically modified microorganisms. The findings of this expert consultation had been published on the WHO website and would be provided to the Codex *ad hoc* Intergovernmental Task Force on Foods Derived from Biotechnology. Following the 53rd World Health Assembly (May 2000) recognition of the importance of foods that used gene technologies, the WHO would be commissioning a research consortium to establish a knowledge base to assist member States, international standard-setting bodies and other stakeholders to achieve a consensus on appropriate modes of application and risk assessment of foods produced using gene technology. The research consortium would identify current knowledge on the potential risks and benefits of modern biotechnology, considering both direct and indirect effects.

83. The representative of IPPC stated that the consultation period for four new IPPC standards (identified in G/SPS/R/22) had ended and that the Secretariat would collate comments and make revisions where necessary before submitting the standards for possible adoption at the Standards

Committee in March 2002. Following the success of regional consultations for Asian countries in Bangkok, a further such consultation would take place in Cairo. A letter had been sent by the IPPC to Members requesting that they identify new topics for standard setting work by 1 December 2001. On new standards being developed, the IPPC representative stated that in August the Working Group on pest risk analysis for environmental hazards had met to develop a supplement to the existing standard on risk analysis for quarantine pests. In September, a working group had taken place on specifications for standards on living modified organisms (LMOs). Outcomes of the meeting were that: IPPC would actively engage with the ICCP (Bureau for the Implementation of the Cartagena Protocol); LMOs did not present uniquely different plant pest risks compared to non-LMOs; additional guidance was required for methodologies for risk analysis as applied to LMOs and the draft specifications were agreed for a new standard on LMO risk analysis; and the draft specifications would be presented at the Interim Commission for Phytosanitary Measures for its adoption and also to the ICCP. A further working group on irradiation was planned for Mexico City in November, along with a technical consultation between regional plant protection organizations in New Zealand.

84. The representative of OIE informed the Committee of the finalization of guidelines on bacterial resistance to antibiotics, which would be published at the end of the year in the scientific and technical magazine of the OIE. Within the Code Committee of OIE, new guidelines had been drawn up on the assessment of veterinary services as well as on regionalization and zoning. Both of these additions to the Code would be submitted to the International Committee next year for approval. Following a meeting of the ad hoc committee on BSE, improvements to this chapter were suggested regarding animal disease surveillance so as to take on-board new diagnostic techniques. On FMD, the OIE representative confirmed that the Republics of Korea, Ireland, France and the Netherlands had recovered their status of FMD free without vaccination. An ad hoc group had also been established on BSE-free status and it was hoped their first meeting would take place at the beginning of 2002.

85. The representative of Chile stressed that the Codex Committee on Import and Export Certification and Inspection Systems would be considering important documentation on equivalence at its meeting in early 2002. Furthermore, in December, an open drafting group of the Codex Committee on General Principles would meet to work on risk analysis and Codex standards. At the last Executive meeting of Codex a strategic planning document was adopted, giving countries the opportunity to contribute to medium-term planning activities (over the period 2003-2007) for Codex.

VII. OBSERVERS

Requests for observer status

86. The ad hoc observers of the ACP Group, EFTA, IICA, OECD, OIRSA and SELA were invited to attend the next Committee meeting.

87. The Chairman indicated that in the case of the OIV and APCC, there had been no change in Members' positions from the last meeting.

VIII. OTHER BUSINESS

FMD situation in Argentina

88. The representative of Argentina indicated that a report issued on 23 October on the epidemiological situation (week 43 of the outbreak) had recorded no new outbreaks of the disease in weeks 40, 41 and 42. Up to mid-week 43, the number of active outbreaks was six and the total number of cases reported 2,116. The outbreak peaked in week 26 when 159 outbreaks were recorded, after which cases declined sharply. The average length of each outbreak was 55 days. In mid-July, the first mass vaccination of 51.3 million bovine animals and the re-vaccination of 8.3 million animals

had been completed. Vaccination was used in focal areas and prior to animal movements. From 1 August, the second vaccination campaign had distributed 51.4 million doses. The focus in this second stage was on buffer areas surrounding disease free zones, such as Patagonia, river bank dairy areas, breeding farms and other areas where there were seasonal movements. Additionally, the campaign would focus on breeding herds with seasonal deliveries in August, September and October so as to immunize new born calves. As a result of these actions immunity in the population had been considerably improved.

89. The representative of the European Communities reported that a visit by veterinary officials would take place to Argentina shortly after the Committee meeting. The European Communities hoped the evaluation would be positive and lead to a lifting of the current ban on Argentine imports.

Argentina's concerns about Chile's FMD restrictions

90. The representative of Argentina stated that his country was concerned about draft regulations being drawn up by Chile's Agricultural and Cattle Service (SAG) for the importation of fresh or frozen beef. These draft regulations categorized country of origin according to two FMD categories: FMD free without vaccination and FMD free with vaccination. Argentina judged these draft rules stricter than the international reference standard of the OIE, which contained in Article 2.1.1.23 the possibility to allow importation from FMD infected countries or zones so long as certain risk mitigation procedures had been used. If mitigation measures were not accepted, Argentina would only be allowed to resume exports to Chile once it had regained its FMD free status. According to OIE rules a three-year FMD free period would have to elapse before exports could be resumed. Argentina requested Chile to provide sufficient scientific justification as required by Article 3.3 of the SPS Agreement.

91. Stressing that his reply was a preliminary one, the representative of Chile suggested that it was premature to discuss the issue in the SPS Committee as the draft regulation had not been circulated internationally and a bilateral technical meeting, scheduled for early November between the relevant Argentine and Chilean authorities, had not yet taken place. The draft still had to pass through a number of levels before entering into law. The deadline for public comments, 28 October, had only just passed and comments received had not yet been considered. As notified to the Committee, Chile had taken a number of provisional emergency measures in response to the FMD outbreak and was seeking to regularize these controls. The OIE status of FMD with vaccination depended on the proper operation of a country's veterinary health services. Chile maintained a high level of protection, having eradicated all the diseases on the OIE "A" list, and last had an outbreak of FMD in 1987. Chile was respecting the legal provisions of the SPS Agreement, in particular with regard to Articles 3.3, 5.1 and 5.6 of the Agreement, and had not yet been asked to provide a risk assessment by the Argentine authorities.

Argentina's concerns about Indonesia's FMD restrictions

92. The representative of Argentina noted that he had raised concerns about Indonesia's FMD restrictions on certain products at the last SPS Committee meeting. In July, Indonesia had informed Argentina that it had reclassified these products. However, Argentina stated that the changes had not been implemented and it was still unable to export the products concerned, mainly vegetables and corn.

93. The representative of Indonesia stated that the ban on Argentine corn had been lifted as of August 2001. Indonesia looked forward to holding further bilateral discussions with Argentina on this matter after the meeting.

Argentina's concerns regarding US restrictions on citrus

94. The representative of Argentina expressed concerns related to a California court decision to overturn a USDA/APHIS risk assessment which had allowed the import of lemons, oranges and grapefruits from north western Argentina starting 15 June 2000. The representative of Argentina explained that the problem lay not with APHIS, with whom Argentina maintained excellent cooperation, but with the decision taken by a Californian judge that the risk assessment undertaken by APHIS had contained errors, notably by not including a definition of significant risk. Argentina judged that the original APHIS risk assessment met US obligations under the SPS Agreement, but that the judge's reasoning, particularly in requiring a quantification of zero-risk, went beyond the terms of the SPS Agreement. As imports from other destinations could be imported without being subject to zero-risk, Argentina felt this amounted to discrimination. In addition, the judge had ruled that APHIS had not measured the economic impact of imports on producers in the United States. Not only had the APHIS risk analysis undertaken this test, it had concluded that as citrus production in the United States was low, there would not be a major impact on US producers. Furthermore, from the viewpoint of the SPS Agreement this economic test was inadmissible. In conclusion, the representative of Argentina requested that the US authorities take steps to ensure compliance with Article 13 of the SPS Agreement by bodies other than those of the central government. Since trade had opened in June, 26,000 tonnes of citrus had been exported, and the economic impact of the judge's decision on the production region in Argentina was serious.

95. The representative of the United States stated that no problems had been reported during the two seasons that Argentina had had access to the US market for citrus since APHIS passed federal regulations approving imports. US regulations were subject to judicial review and had been challenged through a District Court in California. Although the Federal Government had disputed the case, the Court had ruled in favour of the complainant in September 2001. The US representative stated that the executive branch agencies were consulting about how to proceed and would take the comments of Argentina into account.

96. The representative of Chile noted that this situation in which an importer sought to use the national courts to restrict importation of a particular product could arise anywhere and recommended that the Committee should study this question in future.

Argentina's concerns regarding phytosanitary regulations in the Canary Islands

97. The representative of Argentina expressed concerns about how phytosanitary regulations in the Canary Islands differed from those applied in the European Communities, particularly as regarded apple and pear imports. As Argentina had demonstrated the equivalence of their measures in a communication to the EC representative in March 2001, there seemed to be no objective reason why exports of apples and pears to the Canary Islands were prohibited. In particular, Argentina questioned why the Canary Islands had been exempted from the scope of EC Directive 2029. Argentina asked for a probable date for the implementation of this regulation by the Canary Islands and requested acceptance of the equivalent measures proposed by Argentina in March.

98. The representative of the European Communities stated that he would provide Argentina with a bilateral reply in due course.

Argentina's concerns on Venezuela's restrictions on potatoes

99. The representative of Argentina requested that the Venezuelan authorities provide a technical reply to the questions raised during a recent bilateral meeting on the sanitary restrictions on the import of potatoes, so as to facilitate the start of trading in this product.

100. The representative of Venezuela stated that information on the cultivation of table seed potatoes in Argentina indicated the existence of pests that were exotic to his country (namely nematodes, viruses and beetles) – information confirmed in FAO publications of 1999 and 2000. To prevent the entry of these pests, the sanitary authorities of Venezuela maintained measures on the import of Argentine potatoes. The sanitary services were evaluating the appropriateness of alternative methods, such as pest free areas, that would meet Argentina's legitimate trade concerns and Venezuela's appropriate level of protection.

Argentina's concerns on Cuba's restrictions on apples and pears

101. The representative of Argentina expressed concerns that the government of Cuba did not accept cold treatment as a quarantine treatment for apples and pears. Bilateral consultations had been held between Argentina and Cuba, and further information from Cuba was expected on this issue.

US concerns on EC agricultural biotechnology approval processes

102. The representative of the United States informed the Committee of his country's growing concern regarding the lack of a functioning approval process in the European Communities for agricultural biotechnology products. Since 1998, a de facto moratorium on approval of agricultural biotechnology products had been in place. The United States believed that the European Communities was obligated under the SPS Agreement to have a functioning approval process and that they should not continue to delay decisions on pending applications. The United States believed that the European Commission had both the authority and responsibility to take the action necessary to restart the approval process, and urged the Commission to restart the process as soon as possible.

103. The representative of Canada agreed with the US concerns and wished to see a functioning EC approval process. More broadly, Canada was concerned that the European Communities was fundamentally altering the regulation of agriculture and food products to discriminate on the basis of how a product was produced rather than the product's characteristics. One of the regulation's requirements which raised particular concerns was the need to label highly refined products, such as oils where there was no detectable DNA or protein. Canada further considered the regulation to be arbitrary, as the European Communities did not require similar controls on products that could present equal risk but which were produced using other methods of development such as mutation breeding or mutagenesis. Moreover, the regulations discriminated against products produced from genetically modified products, but not against products produced with genetically modified organisms. A significant portion of EC cheese and wine was produced with GM processing aids, such as enzymes, but would not require labelling even though the processing aids left detectable residue traces.

104. The representative of Canada argued that the EC regulations were not commensurate with the risks entailed and lacked scientific basis. In this respect, reference was made to a report from a group of 400 pre-eminent EC scientists, sponsored by the Research Directorate of the European Commission, that had concluded that using biotechnology did not contain any more risks than using traditional plant breeding techniques. Since the regulations were both arbitrary and discriminatory, they clearly disrupted trade. Furthermore, the regulations were fundamentally unworkable, as demonstrated by the one per cent threshold for the adventitious presence of GMOs. The question of ability to verify labels through testing raised questions about the workability of the regulation and created risks of fraud and misrepresentation of products. In this respect the regulations did not explain how EC member States should set out or oversee the infrastructure required. Canada could envision how the regulations could be enforced at ports, but not how the regulations would be enforced through an entire agri-food system within the European Communities. Furthermore, a report issued by a food standards agency of an EC member State had concluded that the regulation was unworkable, unscientific and costly.

105. The representative of the European Communities reaffirmed the European Commission's interest and positive actions aimed at allowing the authorization procedures to continue. The recent meeting of the European Environment Council had started a very important discussion on proposals presented by the Commission to restart the authorization procedure. The representative of the European Communities suggested that the issues raised by Canada should have been more properly addressed elsewhere on the Committee's agenda than "Other Business", but nevertheless agreed to study Canada's comments.

Thailand's concerns on 3MPCD

106. The representative of Thailand stated that since early 2001, Thailand had not been able to export soy sauce to certain countries, including the European Communities, due to 3MPCD limits set as low as 0.01mg per kilogramme. Thailand considered this level to be excessively low, and the European Communities had agreed to review its limit on the basis of new scientific evidence. Measures had been taken in Thailand to establish maximum 3MPCD limits and to modify production processes to lower rates of contamination; and its industry expected to be able to meet a 1 mg per kilo limit within one year. According to the EC JECFA analysis, 3MPCD was not genotoxic and a provisional maximum daily threshold limit had been set at 2 micrograms per kilo of bodyweight per day. Based on this limit for a person of an average 50 kilo bodyweight, a safe daily consumption of up to 10 grammes would be allowable. However, the limits applied by Members differed widely from 0.01 to 0.1.mg per kilogramme.

Thailand's concerns regarding Australia's restrictions on durian

107. The representative of Thailand stated that concerns over Australia's import rules for durian had first been raised in the Committee in November 2000. Assurances had been sought from Australia about Thailand's long held concerns over the undue strictness of import restrictions for durian. Despite numerous bilateral meetings, no agreement had been reached and Thailand requested that Australia seek to adjust its import restrictions to make them more commercially viable.

108. The representative of Australia referred Members to G/SPS/GEN/218 in which Australia had first replied to the concerns raised by Thailand. A risk analysis for durian had been finalized in 2000, after submission in 1997, by Thailand of a list of diseases and pests affecting durian. The risk assessment indicated that other non-destructive methods of sampling could be substituted if efficacy data could be presented to show they provided an equivalent level of protection. However no information had been received from Thailand that X-ray technology or irradiation could be equally effective in meeting Australia's biosecurity needs. Australia was keen to finalize bilateral arrangements so that inspections of packing houses and orchards could begin in Thailand and import permits be issued. Australia noted that once trade had commenced, it would be willing to review arrangements after one year to see if adjustments could be made while still maintaining Australia's biosecurity needs.

Thailand's concerns regarding Australia's restrictions on prawns and prawn products

109. Speaking on behalf of ASEAN, the representative of Thailand expressed serious concerns about the inclusion of Australia's domestic enforcement practices as a major element in Australia's import risk analysis for imported prawn and prawn products from ASEAN countries. Thailand urged Australia to lift the interim measures taken on the basis of this risk analysis. ASEAN countries believed these measures were not based on scientific evidence and were more trade restrictive than necessary. The representative of Indonesia supported Thailand and urged Australia to lift measures which it considered inconsistent with Article 5 of the SPS Agreement.

110. The representative of Australia stated that interim measures had been taken because of an outbreak of white spot syndrome in Darwin in 2000. The outbreak had been stamped out using severe measures and subsequent surveys had not indicated presence of the virus. Australia believed its measures to be scientifically valid. The risk analysis was continuing and would result in final measures. An application for equivalence for highly processed prawn products was being examined and, if approved, would result in less trade restrictive measures.

111. The representative of the European Communities noted that interim measures should be used for as short a time-period as possible, whilst recognising that risk assessments took time to complete. In the EC's view this was one possible example of where the principle of precaution could be applied.

Thailand's concerns regarding Mexico's restrictions on milled rice

112. The representative of Thailand recalled that in the March 2001 meeting of the SPS Committee, the delegate of Mexico had announced that restrictions had been lifted against Thai exports of milled rice on condition it underwent fumigation treatment. Despite this statement, notification G/SPS/N/MEX/172 showed that Thailand remained among Mexico's list of countries affected by the capra beetle and subject to quarantine requirements. In subsequent bilateral consultations, Thailand had been informed that it would be removed from this list.

113. The representative of Mexico expressed his surprise at Thailand's statement since as of March, Mexico had imported over 1,000 tonnes of Thai rice. He indicated that the product mentioned in G/SPS/N/MEX/172 was not Thai rice.

Request by South Africa for an OIE standard on African Horse Sickness

114. The representative of the Republic of South Africa referred members to document G/SPS/GEN/289 in which a request was made to the OIE for the development of a standard on African Horse Sickness.

115. The representative of the OIE stated that South Africa's request would be submitted to the next OIE Code Committee meeting. Revision of the chapter on horse sickness had begun at the start of the 1990s after the disease appeared in Morocco and the Iberian peninsula. The code was revised and deemed sufficient to carry out equine events at the Barcelona Olympics of 1992. Since 1992, a new chapter on sheep had been adopted providing for the establishment of safe zones if the epidemiological conditions of the countries concerned were deemed favourable. In view of its expertise in African Horse Sickness, the OIE representative invited South Africa to propose a chapter in the code.

Chairman's comments on issues raised under Other Business

116. The Chairman noted that the positive attitude displayed by all Members in the SPS Committee had resulted in a relaxation of the Rules of Procedure. Rules of Procedure 25 and 26 applied to discussions under Other Business and, in short, stated that unduly long or substantive discussions of business should be avoided under this agenda item. The Chairman encouraged Members to respect the 10-day rule to request the inclusion of items on the regular agenda.

117. The representative of the European Communities stated that the European Communities had abstained from raising trade concerns under Other Business, in order to respect the Rules of Procedure and also because any delegation raising a substantive issue for consideration could not expect to receive a full reply to their query. As such, the EC representative urged Members to make summary statements under Other Business.

118. The representative of Canada clarified that comments his delegation had made under Other Business could equally have been made under item 2c of the agenda. He looked forward to a full discussion of the EC's draft GMO labelling and traceability regulations at the next Committee meeting.

Date and Agenda for Next Meeting

119. The next regular meeting of the Committee is scheduled for Wednesday and Thursday, **20 and 21 March 2002**. In line with the Committee's Decision on Equivalence, a specific agenda item was included on equivalence. Members were encouraged to report on their experiences with equivalence under this agenda item. Informal meetings on transparency, equivalence and technical assistance would be held immediately prior to the next regular meeting.

120. The Committee agreed on the following tentative agenda for the formal Committee meeting:

1. Proposed agenda
2. Implementation of the Agreement
 - (a) Information from Members
Activities of Members
 - (b) Specific trade concerns
 - (i) New issues
 - (ii) Issues previously raised
 - (c) Consideration of specific notifications received
 - (d) Any other matters related to the operation of transparency provisions
 - (i) Report of informal consultations
3. SPS Agreement and developing countries
 - (a) Implementation of the provisions for special and differential treatment
4. Equivalence – Article 4
 - (a) Report on informal consultations
 - (b) Information from Members on their experiences
 - (c) Information from relevant observer organizations
 - (d) Further work programme
5. Technical assistance and cooperation
6. Monitoring of the use of international standards
7. Matters of interest arising from the work of observer organizations
8. Observers - Requests for observer status
9. Other business
10. Date and agenda of next meeting

121. The Chairman reminded delegates of the following deadlines:

- for identifying new issues for consideration under the monitoring procedure: **20 February 2001**
 - for requesting that items be put on the agenda: **7 March 2002**
 - for the distribution of the airgram: **8 March 2002**.
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