
Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING OF 18-19 OCTOBER 2007

Note by the Secretariat¹

Table of Contents

| | <u>Page</u> |
|---|-------------|
| I. ADOPTION OF THE AGENDA..... | 3 |
| II. ACTIVITIES OF MEMBERS..... | 3 |
| III. SPECIFIC TRADE CONCERNS | 4 |
| (a) New issues | 4 |
| (b) Issues previously raised | 7 |
| (c) Consideration of specific notifications received..... | 10 |
| (d) Information on resolution of issues..... | 10 |
| IV. OPERATION OF TRANSPARENCY PROVISIONS..... | 10 |
| (a) Chairman's report on informal meeting | 11 |
| V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT | 13 |
| (a) Chairman's report on informal meeting | 13 |
| (b) Other matters relating to special and differential treatment..... | 14 |
| VI. EQUIVALENCE..... | 15 |
| (a) Information from Members on their experiences | 15 |
| (b) Information from relevant observer organizations..... | 15 |
| VII. ARTICLE 6 - PEST OR DISEASE FREE AREA | 15 |
| (a) Chairman's report on informal meeting | 15 |
| (b) Information from Members on their Experiences..... | 17 |
| (c) Information from relevant observer organizations..... | 17 |
| VIII. TECHNICAL ASSISTANCE AND CO-OPERATION | 17 |
| (a) Information from the Secretariat..... | 17 |
| (b) Information from Members..... | 20 |

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|--------------|---|-----------|
| (c) | Information from observers | 21 |
| IX. | OTHER ISSUES ARISING FROM THE REVIEW OF THE OPERATION OF THE SPS AGREEMENT | 23 |
| (a) | Use of ad hoc consultations | 23 |
| (b) | Relationship between the SPS Committee and Codex, IPPC and OIE..... | 24 |
| X. | MONITORING THE USE OF INTERNATIONAL STANDARDS..... | 25 |
| (a) | New issues | 25 |
| (b) | Issues previously raised | 25 |
| XI. | CONCERNS WITH COMMERCIAL AND PRIVATE STANDARDS..... | 26 |
| XII. | TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA..... | 30 |
| XIII. | MATTERS OF INTEREST ARISING FROM THE WORK OF OBSERVER ORGANIZATIONS | 33 |
| XIV. | OBSERVERS – REQUEST FOR OBSERVER STATUS | 35 |
| XV. | CHAIRPERSON'S ANNUAL REPORT TO THE COUNCIL FOR TRADE IN GOODS | 35 |
| XVI. | OTHER BUSINESS..... | 35 |
| XVII. | DATE AND AGENDA FOR NEXT MEETING..... | 36 |

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its fortieth meeting on 18-19 October 2007. The proposed agenda for the meeting was adopted with amendments (WTO/AIR/3085).

II. ACTIVITIES OF MEMBERS

Australia - Reform of Import Risk Analysis (IRA) Processes

2. The representative of Australia recalled that they had provided details of planned changes to Australia's IRA processes to the Committee in February 2007. The new arrangements had come into effect on 5 September 2007. Among the many changes, the legislation now set specific timeframes for completion of IRAs within either 24 months or 30 months, depending on the complexity of the science. All new IRAs would be progressed under the new arrangements, but those IRAs already well underway would be finalized under the previous IRA processes. The legislation was accompanied by the release of a new updated IRA handbook that provided detailed information regarding the new processes. Further information on the new arrangements could be accessed at the following website: www.biosecurityaustralia.gov.au.

Australia – Update on the outbreak of Equine Influenza in Queensland and New South Wales

3. The representative of Australia reported Australia's first ever outbreak of Equine Influenza (EI) in August 2007. The outbreak was contained to specific geographical areas in the States of New South Wales and Queensland only. The authorities were continuing their efforts to control and eradicate this disease. Australia had notified this outbreak and subsequent updates to the OIE, ProMED and relevant trading partners. The Australian Animal Health Laboratory had isolated the EI virus in Australia and had determined its genetic sequence. Information was freely available on the Outbreak website (www.outbreak.gov.au). As a result of this incident, Australia had implemented interim measures for the importation of horses which were detailed on the Biosecurity Australia website (www.daff.gov.au/ba). In addition, overseas veterinary authorities were being contacted to discuss the revised certification requirements prior to imports recommencing.

China – Information on further measures to reinforce food safety

4. The representative of China reported that in response to some countries' concerns, as well as media coverage on Chinese food safety, the Chinese Government adopted five specific measures to strengthen product quality and food safety. The specific measures were pragmatic, scientific and thorough and thus would ensure product quality and safety. To date, 444 enterprises had been "blacklisted" by China's Ministry of Commerce and the foreign trade rights of those enterprises had been expropriated according to law. China would not shy away from the problem nor cover up products of inferior quality; all efforts would be made to solve the problem in an honest manner. Members should adopt an objective and reasonable attitude towards food safety problems arising in the course of international trade. In late November, the Chinese Government, together with the WHO, would hold an international high-level forum on food safety with an emphasis on strengthening communication and cooperation to ensure food safety. China hoped that WTO Members could continuously strengthen cooperation in the area of food safety, share management experiences and learn from each other to meet the global challenges of protecting consumer health.

United States – Recent actions with respect to BSE

5. The representative of the United States informed Members of some recent changes in their regulations relating to bovine spongiform encephalopathy (BSE), notified in G/SPS/N/USA/1668 and G/SPS/N/USA/828/Add.5. These regulatory changes reflected the US commitment to aligning its BSE measures with the OIE standards and the relevant science related to BSE, and to normalizing trade with countries that instituted appropriate safeguards to prevent the spread of BSE. The United States urged all Members to bring their BSE-related trade measures in line with the provisions of the OIE Code in order to minimize unnecessary disruptions to trade in beef, cattle, and cattle products. At present, Canada was the only country recognized as a minimal risk region for the introduction of BSE into the United States.

Paraguay – Information on exports of cucurbits (squash and melons) to Argentina

6. The representative of Paraguay reported on a work plan for the export of cucurbits to Argentina. The specific surveillance measures guaranteed the export of fruits that did not pose quarantine risks with regard to the pest *Anastrepha grandis*. This action was taken to ensure equality of criteria used in the procedures and in the implementation of risk mitigation measures in line with the principles of non-discrimination, harmonization, equivalence, transparency and confidentiality.

Paraguay – Information on exports of palms to Spain

7. The representative of Paraguay informed the Committee on the export of palms to Spain in compliance with the Directive EC 2000/29 and the complementary Spanish standard established for the export of this product to the EC territory. Because of nursery surveillance along with the laboratory analysis of samples, Paraguay had been able to export many different species of palms to Spain.

Paraguay – Information on the pesticide registration system

8. The representative of Paraguay reported on the implementation of the new standard for the registration of pesticides which was notified in document G/SPS/N/PRY/14. SENAVE (Servicio Nacional de Calidad y Sanidad Vegetal y de Semillas) was currently receiving requests from laboratories in the region in order to accredit and provide technical information required by enterprises in accordance with the standards and specifications of FAO and COSAVE (Comité de Sanidad Vegetal del Cono Sur).

III. SPECIFIC TRADE CONCERNS

(a) New issues

EC import restrictions on cooked poultry products – Concerns of China

9. The representative of China raised the concern that since July 2004, the European Communities had suspended the importation of cooked poultry meat from China because of the presence of highly pathogenic avian influenza in China. The OIE guidelines on AI explicitly stated that heat treatment de-activated the virus and that restrictive measures associated with AI should not be applied to cooked poultry meat. The EC Health Commissioner had agreed to lift the prohibition of cooked poultry meat from China into the European Communities, and China requested that this be done as soon as possible in accordance with OIE guidelines and the SPS agreement.

10. The representative of the European Communities responded that the prohibition in question had been in place since January 2002 and related not only to avian influenza but also to certain

hygiene concerns. These issues had now been resolved and the ban should be lifted within a matter of weeks.

US import restrictions on cooked poultry products – Concerns of China

11. The representative of China stated that the OIE had explicitly pointed out in the Avian Influenza Guideline that restrictive measures associated with avian influenza should not be applied to cooked poultry meat that had been subjected to heat treatment to destroy the virus. Nonetheless the United States prohibited the importation of such cooked poultry meat processed from poultry originated in China. Although the United States admitted that there was no technical problem for the importation of such cooked poultry meat and it was only a matter of legal procedure, the US Congress had passed in August the Agriculture Appropriations Bill for Fiscal Year 2008, of which section 731 prohibited the importation of such products from China. China questioned the scientific justification behind such a decision, how this section took into consideration the SPS principle of minimizing negative effect on trade and the principle of risk assessment. China hoped that the United States would abolish section 731 and lift the ban as soon as possible.

12. The United States wishes to note that the Agriculture Appropriations bill has not yet passed Congress, and is subject to potentially substantial change before it is signed into law by the President.

Import restrictions applied to beef and beef products on the basis of the presence of Blue Tongue – Concerns of the European Communities

13. The representative of the European Communities stated that certain WTO Members were imposing unjustified import restrictions that went beyond the recommendations of the international standard-setting organizations on the basis of the presence of Blue Tongue disease. The OIE Terrestrial Animal Health Code contained clear recommendations regarding Blue Tongue disease. While WTO Members might review the input conditions for live ruminants or genetic material in the light of the recent outbreaks in a limited number of EC member States, there was no scientific basis for imposing additional import restrictions on beef and beef products. According to the OIE these products did not pose a risk from a Blue Tongue perspective. The European Communities was not aware of any scientific justification and urged Members not to impose import restrictions.

China's avian influenza restrictions – Concerns of the United States

14. The representative of the United States observed that China prohibited imports of poultry and poultry products from seven US states (Rhode Island, Connecticut, New York, Pennsylvania, West Virginia, Nebraska and Virginia) which had experienced cases of low-pathogenic avian influenza. For some of these states, the cases have been completely eradicated for more than two or three years. The prohibition extended even to heat-treated products, a process that inactivated the AI virus. There was no scientific justification for the restrictions China had imposed, which were inconsistent with the provision of the OIE's AI guidelines. The United States had provided China with extensive information of the AI status of these states, and urged China to lift its import restrictions immediately, and to align its measures with the provisions of the OIE guidelines.

15. The representative of China responded that the ban on poultry products from these states was based on risk analysis and on the principle of regionalization of the OIE. Since the beginning of the year, AI had appeared in three other states and China was concerned with the spreading tendency of low-pathogenic strains of AI in the United States. Regarding the four states where AI had already been eliminated, China was conducting a risk analysis based on the information provided by the United States. China had notified the United States on 15 August that according to the relevant Chinese regulations, poultry products coming either directly or indirectly from areas with AI were not allowed to enter China. Regarding heat-treated products, China invited the United States to provide

relevant technical information, including processing techniques and flow charts of cooked poultry meat, so that China could undertake a risk analysis.

Chile's requirements for quarantine treatment of aircraft – Concerns of Argentina

16. The representative of Argentina stated that in April 2007, Chile notified the quarantine treatment of aircraft landing in Chile from areas with high levels of pests (G/SPS/N/CHL/253). Fumigation with pesticides and insecticides was required every time the aircraft required cleaning. This treatment could prevent the export of live bees from Argentina via any aircraft which landed in Chile. Argentina had conveyed their concerns to the Chilean focal point and they had held consultations. The representative stressed the need to ensure that these measures did not unduly affect Argentine exports, and more specifically, that the live bees were not killed by the fumigation.

17. The representative of Chile clarified that the measure in question corresponded to the updating of a law that had been in place since 2006, and that the amendments proposed were an attempt to facilitate rather than hinder trade. A procedural manual had been developed that included clear technical specifications to ensure proper fumigation of the aircraft. Regarding benign insects such as bees, the concentrations of insecticides would be far less than what was specified in the past. Although there was no obligation to notify this measure, Chile had chosen to demonstrate implementation of the principles of transparency by going beyond what was required. The measure had not yet entered into force and Chile was reviewing comments received from other countries. Chile would have preferred to see this issue addressed bilaterally, and informal meetings with Argentina had proceeded positively.

China's varietal restrictions on US apples – Concerns of the United States

18. The representative of the United States stated that China currently limited imports of US apples to just two varieties: Golden Delicious and Red Delicious. Seven years ago, the United States had requested that China allow access for all varieties of apples. Extensive scientific information had been provided to Chinese officials in support of this request. China recently requested information related to fire blight and indicated that its import restrictions on additional varieties of US apples were primarily related to concerns over fire blight. The issue of varietal restrictions on imported fruit and fire blight restrictions on mature, symptomless apples had been addressed by WTO dispute settlement panels. The United States urged China to review the findings of these panels and to adjust its restrictions on US apples appropriately.

19. The representative of China noted that in 1995, the two fire blight resistant varieties mentioned by the United States were allowed to be imported into China. In 2006, a request was made to China for other varieties. These new varieties were not fire blight resistant, so China had to deal with this request on the basis of risk analysis. China had taken note of the WTO dispute settlement case relating to fire blight; however, it still believed mature apples had the potential to serve as a pathway for the disease. An experiment recently carried out by Japan had also shown that mature apples could serve as a pathway for the disease. She asked the United States to provide additional technical material relevant to fire blight and other apple pests as soon as possible in order to complete the market access process. China would handle this matter on a scientific basis and had recently organized a group of experts to speed up the application review process. At present no varieties of Chinese apples were allowed into the United States because the risk analysis had not yet been completed by the United States. Therefore, China also urged the United States to complete the risk analysis that had been ongoing for some time.

(b) Issues previously raised

US restrictions on wooden Christmas trees – Concerns of China (STC no 241)

20. The representative of China reiterated that since 2005, when the United States suspended handicrafts that contain wooden logs, limbs, branches, or twigs greater than one centimetre in diameter and with intact bark, the trade of these products had not resumed. Trade affected by this measure already amounted to over 1 million dollars. All products exported from China were fumigated with methyl bromide or were heat-treated to eliminate the risk of pests. The wooden Christmas tree which was found by the United States to have pest insects was a single violation and a problem of exceptional incidence rather than a problem with the heat treatment or fumigation methods. US experts had found a satisfactory treatment supervision system in China in February 2006. The suspension of all imports based on one case was not in line with the WTO principle of least trade restrictive. On the other hand, in 2006 and 2007, China intercepted more than ten types of pests from US imports and yet China has not taken any measures nor suspended the importation of US wooden products. The United States and China had reached an agreement on the framework for the inspection management measures on wood handicrafts exported to the United States after technical meetings were held in Beijing in April 2007. China requested that the United States consider the IPPC guidelines in wood packaging and the SPS Agreement requirement of least trade restriction, and resume the importation of these products on the basis of scientific analysis.

21. The representative of the United States recalled that the United States began intercepting large numbers of live pests on imported Chinese wooden handicrafts in mid-2004, with more than 400 interceptions of the brown fir beetle over a two-year period. Quarantine pests had even been detected on products that had reportedly, according to the certification by Chinese officials, been fumigated or heat-treated. At the time, the United States actively sought input of Chinese quarantine officials to develop a plan of action to address this problem, but did not receive any response. Therefore, on 1 April 2005 the importation of the handicrafts were suspended to prevent the introduction of dangerous forest pests. The restrictions did not apply to products which had been treated and had the bark removed. Prior introduction of forest pests from China, including the Asian long horned beetle and the emerald ash borer, had serious environmental and economic consequences in the United States. The United States was in the final stages of the risk assessment analysis and hoped that this assessment would be available for public comment in the near future. The United States had been very transparent regarding this issue and had maintained significant dialogue with the Chinese officials. The United States had also provided significant funding to support training for Chinese port personnel on appropriate treatments for exported Chinese wooden handicrafts. The United States was committed to continuing their dialogue with Chinese officials in order to reach a solution on this issue.

Indonesia's lack of recognition of pest-free areas – Concerns of the United States (Decree 37) (STC no 243)

22. The representative of the United States provided an update on concerns first raised in October 2006, regarding Indonesia's Decree 37. These concerns had been only partially resolved. While exports of apples, pears and cherries had resumed, Indonesia required treatment for pests that did not exist in the exporting regions, or which could not become established in the Indonesian territory. The United States was still waiting for Indonesia to provide a written response to the information that the United States had presented during and after a technical meeting in May 2007, and trusted that Indonesia would continue the technical discussions to resolve the issue.

23. The representative of Indonesia noted that they had provided clarifications regarding this issue in previous Committee meetings. The United States and Indonesia had held a bilateral meeting

just previous to this meeting and had seriously discussed this issue. Indonesia had agreed to follow up with further communication with the United States.

Australia's import restriction on prawns and prawn products - Concerns of Thailand (STC no 85)

24. The representative of Thailand informed the Committee of the current situation regarding Australia's interim measures on the importation of prawn and prawn products that came into force on 30 September 2007. Thailand and Australia had been undertaking technical discussions within the ASEAN SPS expert group and through bilateral trade negotiations. Some progress had been made on important issues but there were further issues remaining to be discussed. Thailand hoped to find a mutually acceptable solution on the prawn issue in the near future.

25. The representative of China stated that her country shared the concerns expressed by Thailand regarding the restrictions on these products. China requested to be kept informed of the progress these two countries made bilaterally.

26. The representative of Australia responded that Australia's revised interim quarantine measures for prawns and prawn products had become effective on 1 October 2007 and it had been notified as an addendum to the notification on the release of the revised draft Import Risk Analysis (IRA) report in November 2006 (G/SPS/N/AUS/204/Add.1). In addition, Australia's trading partners as well as existing import permit holders were contacted in advance to inform them of the implementation of the measures. The representative noted that the revised interim measures followed a very detailed scientific risk analysis conducted by Biosecurity Australia and were deemed necessary to achieve an appropriate level of protection. More than 50 submissions were carefully considered in which a number of technical issues required discussion with some of the stakeholders. On 20 September 2007, Australia had accepted Thailand's proposal on alternative cooking parameters for prawns. Australia was willing to consider similar proposals from other exporting countries as well as to discuss equivalent measures such as zoning and compartmentalization.

India's export certificate requirements for dairy products – Concerns of the United States

27. The representative of the United States expressed concern that India maintained more stringent maximum residue levels (MRLs) on imported dairy products than it did for domestic products, raising serious questions regarding India's adherence to its international obligations. In October 2006, the United States proposed a health certificate attesting that US milk and milk products were fit for human consumption. However, India had refused to accept the certificate, highlighting concerns regarding US action levels for dairy products. Bilateral technical meeting had been held in May 2006 to discuss the issue and the United States submitted various supporting documents as requested by the Indian experts., but no response was received. Additionally, the United States had requested bilateral health discussions with the Indian technical experts, but no response had been received. The United States urged India to reconsider its October 2006 certification proposal and also requested India to formally and comprehensively respond to the proposal and subsequent requests.

28. The representative of India informed the Committee that a health protocol for dairy products had been in place in India since 2006 and that it applied to all dairy products being exported to India. Various dairy products from the United States were currently being imported as per the existing protocol. The sanitary certification for India proscribed limits of contaminants in accordance with Codex standards, and India's standards for contaminants in domestic dairy products were also in line with Codex standards for the majority of contaminants and even higher for some. The additional information provided on the USDA Agricultural Marketing Service's (AMS) Pesticide Data Program and on the test results of pesticides in milk samples were being currently examined by technical experts. Regarding the US proposed certificate, India had analyzed the action level of certain contaminants cited in the US document and found that they were less strict than the Codex standards.

In a recent high level meeting, it was decided that the United States would send a team of technical experts to India. During a bilateral meeting, just prior to the SPS Committee meeting, the United States had asked for certain clarifications. This request would be conveyed to India's technical experts in capital.

India's avian influenza restrictions – Concerns of the United States (STC no 185)

29. The representative of the United States reiterated her country's concern regarding India's ban on imports of US poultry, swine and their products due to detections of low-pathogenic avian influenza (AI) in wild birds in the United States. In June, the United States had noted that this prohibition went beyond the OIE guidelines and that India had not provided scientific justification for this prohibition. India had made two notifications related to AI (G/SPS/N/IND/46/Add.3 and Add.4). The Add.3 document extended AI-related import prohibition to include pig bristles. Prohibiting the import of these products was not scientifically justified nor in compliance with the OIE guidelines based on the AI status of a country, region or zone. The United States requested that India remove all import restrictions on US origin live pigs and porcine products. India's Add.4 extended for a further six months the emergency measures it had put in place in August 2006. The US representative expressed concerns with regard to India's continued emergency measures related to AI. She urged India to put in place permanent measures for trade in poultry products and AI, and to ensure that these measures were consistent with the provisions of the OIE Code chapter on AI. India's measures should distinguish between highly-pathogenic and low-pathogenic strains of AI, and allow for the application of regionalization.

30. The representative of the European Communities stated that the European Communities had problems similar to those mentioned by the United States. India failed to recognize the difference between high and low pathogenic influenza as well as the AI-related differences between wild birds and domestic animals. The European Communities encouraged India to follow the recommendations from the OIE.

31. The representative of India stressed the dangers related to AI and how widespread the virus had been. He recalled that India had an outbreak in 2006 which had been successfully contained in due time. For this reason the country was extremely cautious to safeguard its animal and human health, particularly in view of the family run poultry industry in India and because AI was known to reoccur in countries where outbreaks had previously taken place. India restricted imports from countries reporting AI. The United States was currently positive for low pathogenic AI in poultry (LPNAIH5). India's import restrictions due to outbreaks of AI in the United States were clarified in detail to the United States during the last trade policy forum meeting held in New Delhi. He contested the claim that India's regulations were not based on science by observing that the presence of LPAI in poultry was a notifiable disease according to the OIE as per the list of diseases in Article 2.1.3 of the Terrestrial Animal Health Code. Furthermore, as noted by USDA's factsheet on AI, LPAI had a high potential to mutate into highly pathogenic AI; a view that India shared. Nonetheless, India regularly reviewed its trade regulations in the light of new developments on AI. Regarding the concerns with pork products, there were numerous scientific reports that pigs could be easily infected by many human and AI viruses and, therefore, could provide an environment favourable for viral replication and genetic re-assortment. The fast mutating nature of the AI virus, along with the possibility that the virus could re-combine with other subtypes, made pig and pig products a risk. With regard to wild birds, the representative indicated that consultations with experts had taken place and that the Indian authorities were of the view that wild birds could not be ignored with respect to AI. The US and EC concerns would be reported back to India's technical experts for review.

32. The representative of the OIE clarified the recommendations of the OIE and how they should be put in practice. The listing of diseases such as high pathogenic avian influenza (HPAI) and low pathogenic notifiable avian influenza (LPNAI) was first and foremost for disease reporting purposes

and related to the question of transparency. Findings of AI in wild birds and of LPNAI should not lead to import bans. She emphasized that there needed to be a distinction drawn between reporting and the imposition of measures. The representative reiterated that there was no scientific basis for restrictions on pigs and pig products in relation to AI, whether it be high or low pathogenic strains, and this point was clear in the OIE terrestrial code. OIE was concerned that the imposition of measures that were not scientifically based worsened the risks for spread of disease because countries were discouraged from proper reporting if they believed that the reporting would lead to unjustifiable measures. It was of utmost importance that countries report their diseases.

El Salvador's measures affecting poultry and eggs – Concerns of the United States

33. The representative of the United States provided an update on the discussions with El Salvador regarding certain aspects of its import requirements for imported poultry and eggs. As was indicated in June, the United States believed the measures to be inconsistent with the SPS Agreement obligation to base measures on science. El Salvador had agreed to visit the United States for discussions and site visits related to this measure. The United States looked forward to providing the Committee with a report from El Salvador's visit at a future meeting.

34. The representative of El Salvador clarified that the measure referred to a standard that El Salvador notified in 1999 as G/SPS/N/SLV/21. In the past year, El Salvador had held bilateral meetings with US technical experts and made progress in the sense that restrictions on certain products such as day-old chicks and fertile eggs had been lifted. El Salvador had extended the certification for those products that were free of salmonella. He also clarified that there were no prohibitions on pre-cooked products because the heat de-activated the virus. He reiterated El Salvador's availability and willingness to continue to meet with the technical experts in order to come up with solutions which would allow the two countries to have free-flowing trade.

(c) Consideration of specific notifications received

35. No issue was raised under this agenda item.

(d) Information on resolution of issues

European Communities – China's import restrictions on products of animal origin due to alleged dioxin contamination (STC no 63)

36. The representative of the European Communities reported on the resolution of the specific trade concern related to China's import restrictions on some products of animal origin from some EC member States due to alleged dioxin contamination. Import restrictions were originally introduced because of an isolated incident which affected a limited number of agriculture products and for which prompt corrective action was taken. Consultations between the EC authorities and China's AQSIQ, at both the bilateral and multilateral level, had been successful in finally putting an end to these restrictions.

IV. OPERATION OF TRANSPARENCY PROVISIONS

37. The Chairman drew attention to the most recent list of national notification authorities contained in G/SPS/NNA/12 and the most recent list of national enquiry points contained in G/SPS/ENQ/22. The notifications received since the last meeting of the SPS Committee were summarized, on a monthly basis, in G/SPS/GEN/793, G/SPS/GEN/795, G/SPS/GEN/798 and G/SPS/GEN/800.

(a) Chairman's report on informal meeting

38. The workshop on transparency took place on Monday, 15 October, and in the morning of Tuesday, 16 October, and followed the programme that was distributed in G/SPS/GEN/794/Rev.1.

39. The Secretariat had presented two background documents during the workshop: an Overview Regarding the Implementation of Transparency Provisions (G/SPS/GEN/804) and a Compilation of Proposals Regarding the Revision of the Recommended Procedures for the Implementation of the Transparency Provisions (G/SPS/W/215). In addition, the Secretariat had launched and had presented new SPS Information Management System, both at the plenary level and during hands-on sessions. Three delegations - China, New Zealand, and the European Communities - had introduced their papers submitted since the last meeting of the Committee (G/SPS/W/212, W/214 and G/SPS/GEN/803, respectively). There had also been a presentation from Chile with respect to the operation of their Enquiry Point and National Notification Authority.

40. The Chairman stated that thanks to various funding arrangements and special projects, there was a high level of participation from developing countries and LDCs. The lively discussions that had taken place, especially during the breakout sessions, not only identified common concerns but also had pointed to possible solutions regarding the implementation of transparency provisions.

41. As in the past, a number of institutional and national challenges had been identified, including:

- (a) awareness at the political level and among the public at large;
- (b) coordination among different Ministries;
- (c) mobilizing the relevant private sector representatives;
- (d) the not always fulfilled promise of regional/inter-governmental cooperation;
- (e) managing the inflow of notifications; and
- (f) sustainability of efforts.

42. There had been some discussion regarding the Compilation of Proposals contained in G/SPS/W/215, in particular with respect to the definition of the comment period, the notification of measures conforming to international standards, the identification of HS codes in notifications, and access to full texts of regulations and their translations. However, it had been felt that more discussion and reflection were necessary before revising the Recommended Procedures contained in G/SPS/7/Rev.2.

43. With respect to the New Zealand proposal regarding the establishment of a mentoring mechanism, there had been an extensive discussion on the procedures that could be followed and the Secretariat had agreed to develop a proposed mechanism for facilitating the mentoring. At the same time, a number of delegations had stressed that this mechanism should complement and not substitute for other bilateral, regional or multilateral efforts.

44. The recommendations arising from the workshop had included the following:

- (a) The Secretariat to revise G/SPS/W/215 in light of discussions held during the workshop and any further suggestions from Members. Such suggestions should be submitted by 15 November. The revised proposal would be considered by the Committee at its next meeting.

- (b) The Secretariat to prepare a basic document explaining transparency obligations and laying out some of the steps with respect to transparency obligations and intervals between various steps. The same paper should underline concrete benefits of transparency and of the SPS Agreement as a whole.
- (c) The Secretariat to develop a mechanism for implementing the "mentoring" proposal contained in New Zealand's submission.
- (d) The Secretariat to prepare more regular updates on the level of implementation of transparency provisions, similar to what was done in G/SPS/GEN/804.
- (e) The Secretariat to undertake further training and dissemination on the SPS Information Management System, which could serve as a vehicle for identifying notifications of interest and preparing newsletters/alerts at the national level.
- (f) The development of a practical step-by-step procedural manual by interested delegations, namely Australia and New Zealand, which would be distributed for consideration by other Members. The finalized manual would be posted on the WTO website for access by all interested parties.

45. The above recommendations could be further accompanied by efforts at the national level, including the following:

- (a) Awareness-raising activities at the national level. It was noted that technical assistance activities offered by the WTO Secretariat could serve as a good opportunity to raise the profile of SPS issues;
- (b) More proactive involvement in the identification of technical assistance needs;
- (c) Using international standards as a point of departure for national legislation; and
- (d) Consideration of the development of websites at the national and/or regional level, and of how to assist Members in this regard.

In addition, benefits could be gained from further information exchange at the regional level and use of appropriate regional entities.

46. The FAO Portal had also been identified as a useful source of information on SPS matters.

47. The Chairman observed that the transparency workshop had been very useful. Now the Committee's task was to follow-up on its discussions at various levels, and he suggested that the Committee hold informal meeting before the next SPS Committee meeting.

48. The representative of New Zealand stressed that Australia and New Zealand welcomed any contributions to the step-by-step manual. She recognized the need for a manual that was applicable to a wide audience. Australia and New Zealand would develop a draft for circulation at least eight weeks prior to the next Committee meeting, so that other Members could comment and submit proposals for changes.

49. In response to a suggestion to include data on the number of notifications that indicated the level of deviation from international standards, the Secretariat noted that often this was not provided, but to the extent the information was available, it could be included in future overview reports on transparency provisions.

50. The Secretariat provided a brief update on the new SPS information management system (IMS). A more detailed presentation had been given at the workshop and in hand-on demonstration sessions. The public version of the SPS-IMS had been successfully launched on 15 October 2007, and Members were invited to make use of the system and provide feedback so that the Secretariat could make appropriate changes.

V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

(a) Chairman's report on informal meeting

51. The Chairman reported that at an informal meeting held on 16 October, the Committee had first considered the proposals tabled by Egypt at its last meeting. In opening the discussion, the representative of Egypt had stated that his aim was to make the special and differential treatment obligations more precise, effective and operational as envisaged in paragraph 44 of the Doha Decision on Implementation Related Issues and Concerns. The proposals had not been meant to undermine the provision of any existing S&D or technical assistance. Furthermore, modifying the text of the Agreement was not the primary intention, and Egypt had suggested that other alternatives, such as an authoritative interpretation or decision of the General Council, could be used to bring clarity and predictability to S&D provisions, including those contained in the SPS Agreement.

52. Referring to the proposed language for Article 10.1 presented in document JOB (07)/99, the representative of Egypt had noted that what was being sought was an obligation of result rather than the current obligation of conduct. The process of taking into account the needs of developing countries should not be confused with the outcome of that process. Technical assistance, while useful, could not substitute for S&D.

53. New Zealand had stressed the difficulties for Members to identify the special needs of developing countries and take these into account when preparing their SPS measures. They had suggested that further attention be given to the question of understanding the needs of developing countries and of how these could be taken into account – a suggestion that had been shared by other Members. Several Members had stressed their reluctance to tamper with the delicate balance of rights and obligations in the SPS Agreement by modifying the text. Egypt had noted that the call for comments prior to the drafting of new legislation, as described by the European Communities in paragraph 14 of G/SPS/GEN/803, was one example of how the special needs of developing countries could be taken into account.

54. With regard to revision of the procedure for transparency of S&D treatment, the representative of Egypt had noted that the Secretariat's proposed revisions to the recommended notification procedures captured many of Egypt's proposed amendments to the G/SPS/33 procedure with regard to transparency, which had been presented in JOB (07)/104. However, Egypt's proposal also sought to increase predictability of the special and differential treatment aspects of the procedure.

55. In the ensuing discussion, Members had focused on the level of obligation implied through the use of the terms "should" or "shall", "could" or "should". The Secretary had recalled that the Committee was not in a position to change the legal obligations contained in the SPS Agreement through a Committee Decision, but could develop non-binding recommended procedures. Egypt and Kenya had stressed that the use of the term "shall", even in a document which contained recommendations, was essential to underline the importance of following the procedures.

56. Other delegations had felt that by using the more compulsory terminology proposed they would be limiting the range of solutions which could be found when an exporting Member identified significant difficulties with a measure. Furthermore, they had maintained that the provision of technical assistance could not be considered a mandatory requirement. One Member had suggested

that before revising the G/SPS/33 procedure it was necessary to understand the reasons for its non-use - in particular in relation to the difficulties faced by developing and least developed country Members in screening incoming notifications. This view had not been shared by Egypt or Kenya. Egypt had noted that in spite of the Committee's recommendation that Members provide at least 60 days for comments on notifications, the Secretariat's analysis of recent notifications indicated that the average comment period was only 40 days. Apparently neither developing nor developed country Members had been following the procedures recommended in G/SPS/33.

57. Recalling the negotiating history of the G/SPS/33 procedure, the Secretariat had observed that the use of the term "could" in relation to possible solutions to concerns identified had been a deliberate choice of the Committee. The Secretariat had noted that there had been the concern that Members should not be required to find solutions to problems for which, technically or scientifically, a solution was not feasible.

58. Turning to proposals made to the Special Session of the Committee on Trade and Development (CTDSS) relating to Article 10.3 of the SPS Agreement, Egypt had outlined its intention to improve the clarity and reliability of this provision as it related to the granting of time-limited exemptions. In Egypt's view, there was also an important element in this Article which related to the provision of technical assistance.

59. New Zealand had noted that its "compromise" CTDSS proposal on Article 10.3 specified that the Committee should decide on a request for a time-limited exemption no later than at the third meeting of the Committee following the tabling of an initial request.

60. Commenting on the proposals, one Member had felt it was important not to repeat discussions on-going in another Committee. Other Members had highlighted the importance of sharing information on matters which could impact on the SPS Committee's future work. In this context, the Secretary had recalled that currently there was no established process by which the Committee could judge a request for a time-limited exemption under Article 10.3.

61. Discussion had also briefly turned to the Doha Implementation Decision on longer time frames for phasing in measures on products of export interest to developing country Members (Article 10.2) and how that decision should be considered in relation to the transparency obligations of Members. The Secretariat had offered to prepare a brief explanatory document to help focus discussion of the relationship between these timeframes.

62. In reply to a request from a Member for information on the Aid for Trade initiative, the Secretariat had provided an overview of on-going technical assistance initiatives in which the WTO Secretariat was involved. These included Aid for Trade, the Enhanced Integrated Framework, the Standards and Trade Development Facility (STDF), JITAP, co-operation with UNIDO and the WTO's own technical assistance programme. The Secretariat had concluded its overview by outlining plans to compile a compendium of sources of SPS-related technical assistance.

63. The Chairman suggested that the Committee consider this item at an informal meeting prior to the regular meeting in March 2008.

(b) Other matters relating to special and differential treatment

64. No member raised any other matter relating to this item.

65. The Chairman noted that he would provide a brief, factual report to the General Council regarding the Committee's consideration of the S&D proposals and other issues relating to S&D, subsequently circulated as G/SPS/46.

VI. EQUIVALENCE

(a) Information from Members on their experiences

66. The representative of Panama drew attention to a notification of recognition of equivalence (G/SPS/N/EQV/PAN/1) in which Panama granted equivalence to US sanitary and phytosanitary systems and other related regulatory systems with regard to poultry and bovine products, and some dairy products. Before evaluating equivalence, Panama carried out a field study in which it visited the institutions of the USDA, analyzed the entire customs system and carried out visits to laboratories in Atlanta. After this evaluation, Panama decided to recognize the equivalence of the US system, and noted that Panama's previous approach of certifying individual plants was complicated and did not allow sufficient attention to alerts. Panama's legislation permitted the authorities to recognize equivalence following the conceptual guidelines of the WTO.

(b) Information from relevant observer organizations

67. The representative of the IPPC stated that in the IPPC the focus was on equivalence of measures. This was a tool much used in the IPPC and its members had not presented any concerns in this regard. In 2005, ISPM #24 was approved which provided guidelines for the determination and recognition of the equivalence of phytosanitary measures. In 2006, the Commission on Phytosanitary Measures adopted revised ISPM #1, which referred to the phytosanitary principles and the application of phytosanitary measures in international trade. ISPM #1 specified that the contracting parties should recognize alternative phytosanitary measures proposed by exporting contracting parties as equivalent when those measures were demonstrated to achieve the appropriate level of protection determined by the importing party.

68. The representative of Codex reported that the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICs) had been developing an appendix to the guidelines on the judgment of equivalence of sanitary measures associated with food inspection and certification. A draft document would be considered and hopefully finalized by the Committee during the meeting in November 2007. All working papers, including the draft on the Import/Export Inspection and Certification Systems, could be found on the Codex website.

69. The representative of OIE drew attention to a report on its activities (G/SPS/GEN/801). One of the topics in the report related to the approach for the export of livestock commodities. While the OIE was not working specifically on equivalence at this time, it was looking closely at how commodities could be exported regardless of the disease status of the country or zone. This put the concept of equivalence into practical application. As a first step, the OIE was conducting an assessment of boneless beef and whether this type of product as a commodity could be traded under certain conditions irrespective of the disease status of a country and zone.

VII. ARTICLE 6 - PEST OR DISEASE FREE AREA

(a) Chairman's report on informal meeting

70. The Chairman recalled that in the previous meeting the delegate from New Zealand reported that a group of 14 Members had been working, through informal consultations, to seek certainty and clarity on the processes of recognition of regionalization, addressing procedures on information requirements and suggested timeframes on the commencement and completion of those.

71. The delegate of New Zealand had reported that good progress had been made in the informal consultations since the last Committee meeting. However, no concrete draft text had been finalized

for consideration by the Committee. New Zealand had also indicated that the ad hoc group would hold final informal consultations on the margins of the next Committee meeting in March next year.

72. While commending the good progress reported, the Chairman had stated that if no compromise were reached by the ad hoc group before the next Committee meeting in March 2008, the consultations on regionalization would be brought back to the Committee to discuss ways to proceed with this matter.

73. The representative of OIE had reported on recent work on regionalization. The "Report on OIE Activities to the 40th Meeting of the WTO SPS Committee" (G/SPS/GEN/801) highlighted the concepts of "zoning" and "compartmentalization" and how they could be applied to facilitate trade.

74. OIE also had clarified that their work comprised the steps necessary to define a zone or compartment. Besides the existing chapters on Zoning and Compartmentalization in the Terrestrial Animal Health Code, reference had been made to the Checklist on the Practical Application of Compartmentalization for Avian influenza and Newcastle Disease, distributed at the OIE General Session in May 2007. In addition, OIE had reported that the draft of General Guidelines on Compartmentalization had been distributed to Members for eventual adoption in May 2008.

75. One Member had inquired why OIE's work on regionalization focused on foot and mouth disease (FMD), avian influenza, Newcastle disease and classical swine fever, while trade concerns also involved other animal diseases. OIE's representative had clarified that the work undertaken followed the mandates given by its members.

76. One Member had raised the concern that despite the work to implement the concepts of zoning and compartmentalization, it did not ensure that importing countries would indeed accept products on this basis. The Secretariat had clarified that the reason for agreeing on guidelines for the recognition of regionalization was to make the process more predictable and, therefore, address some of the problems related to market access opportunities.

77. Lastly, IPPC had reported on their work on regionalization, stressing ISPM 29 on Recognition of Pest Free Areas and Areas of Low Pest Prevalence, presented to the Committee in June (G/SPS/GEN/782). IPPC had also reported that it would be creating an open-ended working group for elaborating an ISPM on international recognition of regionalization related to phytosanitary risks.

78. In commenting on the Chairman's report, the representative of the United States expressed appreciation to the delegate of New Zealand for the excellent work on facilitating the discussions on regionalization in the small group. His leadership had been a critical element in the Committee's ability to bridge gaps on this issue. The United States also commended their partners in the small group discussions for their willingness to work together and find creative solutions, since meaningful strides had been made.

79. The representative of the European Communities thanked the working group for the discussions on this issue and the progress that had been achieved. She noted that it was important to make real and concrete progress. One ongoing concern was that these discussions, though very valuable, might delay Members giving effect to the regionalization provisions in the various international standard setting bodies. The European Communities already applied the concept of regionalization extensively yet very frequently found itself victim of other Members' reluctance to extend regionalization to the European Communities and, therefore, found the situation quite unbalanced. Lastly, he urged Members to make a real effort to bring these discussions to a successful conclusion.

80. The representative of the OIE clarified that the administrative steps for establishing and for recognition of a zone or compartment were covered in Chapter 1.3.5 of the Terrestrial Animal Health

Code. She also specified that if countries were not able to reach an agreement, they could seek mediation on a voluntary basis from the OIE.

81. The Chairman indicated that the Committee should take up this issue during the March meeting. Whether the Committee would not need to take up this item in an informal meeting would be decided in due time.

(b) Information from Members on their Experiences

82. In the context of regionalization and also bearing in mind the recommendations made by the European Communities, the representative of Morocco stated that his country had set up a number of groups on the basis of different sectors of breeding and animal husbandry comprised of experts, academia and professionals. Morocco had published a law regarding sanitary measures which came into effect in 2002, and their legislation was in the forefront when it came to agriculture. Animal husbandry was used as a pilot for the regionalization process.

(c) Information from relevant observer organizations

83. The representative of the IPPC reported that the second meeting of the International Phytosanitary Commission had adopted ISPN #29 on the recognition of pest-free areas and areas of low pest prevalence. This standard described the procedure for the bilateral recognition of pest-free areas. Next year the IPPC would put in place an open-ended working group which would undertake a feasibility study on the international recognition of pest-free areas.

84. The representative of the OIE indicated that the Terrestrial Animal Health Standards Commission had largely finalized the idea of a disease containment zone. This accepted a limited incursion of a disease into a country or zone that was previously free, and the aim of this concept was to minimize the trade disrupting effects of a disease incursion. Within that zone, the country controlled and managed the incursion, while outside the containment zone trade could continue. This was an example of a particular application of regionalization.

85. The representative of OIRSA reported that his organization had held three separate seminars to work on the stamping out of porcine fever in Costa Rica, Honduras and neighbouring countries. This was an important initiative within the framework of the regionalization endeavour.

VIII. TECHNICAL ASSISTANCE AND CO-OPERATION

(a) Information from the Secretariat

86. The Secretariat informed the Committee of updates to the document G/SPS/GEN/797, circulated on 5 September 2007, which described WTO Technical Assistance Activities covering the SPS Agreement in the current year and early 2008. The Technical Assistance Activities held since the last SPS Committee meeting in June had been:

- (a) Regional Short Trade Policy Course for French-speaking countries, in Cameroon, 20 July;
- (b) National seminar in Indonesia, 24-25 July;
- (c) WTO/Inter-American Development Bank Workshop on the SPS Agreement for the Caribbean in Kingston, Jamaica, 31 July–2 August;
- (d) National SPS/TBT seminar in El Salvador, 26-27 September; and
- (e) 42nd Trade Policy Course in Geneva, 3-4 October.

87. Upcoming technical assistance activities included:
- (a) National SPS/TBT seminar in Nicaragua, week 13-15 November;
 - (b) National seminar in Yemen, 20-21 November;
 - (c) WTO Regional Workshop on the SPS Agreement for English-speaking countries, covering COMESA Members, to be held in Lusaka, Zambia, 10-12 December;
 - (d) National seminar in Costa Rica, week of 21 January;
 - (e) National SPS/TBT seminar in Belize, week of 28 January;
 - (f) National Seminar in Rwanda, dates to be confirmed; and
 - (g) eTraining Course on Introduction to Sanitary and Phytosanitary Measures, in English, from 5 November until 14 December.
88. More general training on the SPS Agreement would be provided during:
- (a) The regional Trade Policy Course for Latin American Countries in Chile, 9 November; and
 - (b) The 12th Introduction Course for Least-developed Countries in Geneva, November 2007.
89. The Secretariat also informed the Committee about the 3rd Specialized Course in which participants were to attend classes during the two weeks following the SPS Committee meeting. Further information on SPS technical assistance provided by the WTO could be obtained on the WTO website, or by contacting Robson Fernandes for additional clarification and assistance.
90. The representative of Indonesia expressed his government's appreciation to the Secretariat for their technical assistance and cooperation in the national seminar on SPS measures, which was held in Jakarta on 24-25 July 2007. He also informed the Committee that the impact of national seminars was very positive, especially to improve a common understanding between the various stakeholders.
91. The Secretariat gave a report on the Standards and Trade Facility (STDF). Noting that one of the tasks of the Facility was to look at the coordination of SPS-related technical assistance, to get an idea of the impact it was always useful to receive positive feedback as provided by Indonesia.
92. The Secretariat gave updates on the recent work of the STDF as it related to the Aid for Trade initiative. Aid-for-Trade was a process that was first begun during the Hong Kong Ministerial conference to address the supply-side constraints that developing country Members and in particular least developed countries (LDC) faced in profiting from trade liberalization opportunities. The idea behind Aid for Trade was to stimulate the further mobilization of trade-related technical assistance for developing and least-developed countries.
93. The Secretariat reported that the STDF had been invited to organize side events at the three regional Aid-for-Trade conferences which were jointly held by the WTO, the Asian Development Bank, the Inter-American Development Bank and the African Development Bank. In preparation for the events, the STDF commissioned research on the demand-side constraints in three case study regions: Central America, East Africa and a sub region of the greater Mekong Delta: Cambodia, Laos, Vietnam. Research work also looked at the provision of technical assistance to each one of those regions, that is, the supply side of technical assistance.
94. The Secretariat reported that some of the common themes arising from the research and discussion at each of the regional workshops included:

- (a) The fact that a number of capacity evaluations had been undertaken in each of the regions but that there was no one, comprehensive plan shared among donors or beneficiaries about where SPS needs were most eagerly felt.
- (b) The lack of political awareness of the importance of SPS, which raised questions domestically and also in the minds of donors about the sustainability of projects after external funding ended.
- (c) The complexity of compliance with SPS requirements and the additional complications with private standards.
- (d) The substantial growth that had occurred in the provision of technical assistance over the last 5 years.
- (e) Non-tariff requirements were perhaps the main market access issue, even more significant than tariffs.
- (f) The preference of donors was the provision of training, information and soft infrastructure projects. Hard infrastructure projects were more uncommon, perhaps due to the lack of political sensitivity and the concerns over the sustainability in the long run.
- (g) The difficulty of obtaining information on what was being provided in the way of technical assistance and the difficulty of obtaining this information at the national, regional and global level.
- (h) Future provision of technical assistance would continue to grow in the forthcoming period, but the question was how to ensure that the supply of technical assistance met the needs.

95. One of the aims of the regional case-studies was to determine and prioritize needs and develop a worksheet of technical assistance requirements, and to also look at the supply side response under the umbrella of the Aid-for-Trade agenda. If these case studies were successful, the goal was to expand the concept into other regions in 2008 and 2009.

96. Another initiative in which STDF was involved was the joint World Bank and United Nations Industrial Development Organization (UNIDO) seminar which would take place at the WTO on 15-16 November. This seminar, among other things, would be looking at the issue of investment in laboratories for food safety and animal health. In 2008, there would likely be two STDF-related meetings: one looking at the presentation and practice of capacity evaluation tools in the SPS area and the other on the margins of the SPS Committee in October 2008 to present results of the three Aid-for-Trade related case studies and conclusions on best practices.

97. Additionally, STDF planned a compendium of information on SPS-related technical assistance provided. The Secretariat stressed that STDF was also a funding mechanism which regularly invited applications for funding. The next deadline for applications would be 25 January 2008 for consideration by the Working Group at a 3 April 2008 meeting. The next meeting of the STDF Working Group and Policy Committee would take place on 7-9 November. Lastly, the STDF secretariat requested a meeting with the Central American delegates after the SPS Committee meeting.

98. The representative of the European Communities stated that resources directed to SPS technical assistance had increased considerably in the last few years. He encouraged Members to

make best use of these resources, noting that the European Communities had decided to allocate 22 billion euros over a six-year period for development funding. The European Communities was the world's largest importer of food and food products, yet repeatedly found itself in situations where SPS issues were not identified as priorities in EC-sponsored aid programmes. The EC representative encouraged delegates to contact colleagues in relevant ministries to insist that SPS be given a high priority, otherwise funds would not be available when problems were encountered.

99. The Chairman observed that the EC comments were related to the recommendations of the Transparency workshop regarding the need for more political awareness in relation to SPS.

(b) Information from Members

100. The representative of the European Communities provided information on the training of senior administrators of ACP countries. The European Communities would provide a summary of the seminars planned for 2008 as described in the paper which had been provided in the room. Contact information was provided for those developing country delegates interested in attending. He reiterated the need for developing countries to express their interests and needs. The process could be initiated by simply sending an email to the contact point. Lastly, the European Communities expressed gratitude for the input from the relevant international organizations in the seminars and thanked the Belgium authorities for the use their facilities and for arranging visits to private sector facilities.

101. The representative of Jamaica expressed her country's gratitude to the European Communities for an excellent seminar. Classroom lectures were supported by a practical part of the course where delegates visited laboratories, fish markets, food markets, a seaport, etc. She also thanked the Belgium officials for their kind welcome.

102. The representative of Paraguay informed Members that with the support from the Brazilian Ministry of Agriculture, EMBRAPA and the University of Sao Paulo, phytosanitary services of the region had worked together to create an internship program for technicians from plant health services of the region (SENAVE). The internship would relate to the following topics: identification of fruit flies and their economic importance; inspection of mango packaging, control and monitoring of fruit flies *Ceratitis capitata* and *Anastrepha grandis*; and the production of bananas tolerant to black fly.

103. The representative of Côte d'Ivoire stated that some African countries wanted to thank the SPS Committee for all of the efforts being made in technical assistance. African and developing countries were very interested in SPS measures because they were essential to trade. Developing countries faced constraints in training, infrastructure, equipment, etc. Côte d'Ivoire urged Members to continue their support for developing country participation in Committee meetings.

104. The representative of Australia reported on its SPS technical assistance since June 2006. This information was outlined in G/SPS/GEN/717/Add.1. The assistance amounted to over 31 million dollars and in many cases the organizations providing the assistance also made substantial in-kind contributions to the projects. Assistance was given to 36 individual Members, observers and other countries, mainly in the Asia Pacific region, but also in Africa and the Middle East. Most assistance was directed to individual countries but assistance was also provided to groups of countries or regional organizations such as the Pacific Islands Countries and Territories, the Association of South East Asian Nations, Codex member countries, and the APEC group. The aims of Australia's technical assistance were to enhance the capacity of countries to implement their own science-based SPS risk assessment processes and to assist developing countries to adjust to and comply with SPS measures in their export markets. Australia encouraged Members, and particularly developing countries, to provide more detailed advice on their specific technical assistance needs and requirements to facilitate targeted assistance.

105. The representative of Senegal observed that some of developing countries were having problems with regards to SPS measures related to fruit flies, which now restricted the export of many products, including mangos and other fruits, to the European Communities and the United States. He acknowledged that FAO was working on this problem and that many Members were organizing themselves with various funding contributions, but suggested that the WTO should also do something in this regard.

106. The Secretariat clarified that WTO staff members were not experts in phytosanitary, animal health, and food safety areas and that the technical assistance provided directly by the WTO Secretariat consisted of training officials regarding their rights and obligations under WTO agreements. LDC Members had the right to request three national seminars each year on various WTO agreements, and developing country Members had the right to two national seminars. The Secretariat invited countries to respond to the questionnaire contained in G/SPS/W/113 on technical assistance needs. The more detailed and specific the description of needs, the easier it was to find donors or organizations willing to give assistance. Another alternative was to raise these particular needs in the SPS Committee. Countries could also submit proposals for projects to address specific SPS-related needs to the STDF. The Secretariat urged Members to directly contact the delegates of countries who offered assistance to see what kind of assistance they provided.

107. The representative of Chile thanked the Secretariat for their willingness to participate in a video conference. Unfortunately, because of logistical reasons, this could not be done. This was, however, a good way to provide training and the Secretariat's willingness to be involved was appreciated.

108. The representative of Haiti shared their experience regarding fruit flies. In July, they had a problem regarding mangos similar to that of Senegal. Haiti had made a request for assistance to the US Department of Agriculture, which provided direct assistance and the problem was being resolved. He thanked USDA for their help.

(c) Information from observers

109. The representative of Codex highlighted the capacity building manual developed by FAO and WHO which assisted countries in enhancing their capacity within Codex. This manual, developed with the cooperation of Canada, had been translated into various languages and could be downloaded from the FAO website. It could be utilized at the national level to learn the basics on risk analysis and how to develop comments and contribute to the Codex process. The manual had been used in several regional workshops, the most recent being the regional workshop held in Poland with cooperation from Switzerland. FAO was also developing e-learning modules which were now being internally tested and would go online shortly.

110. The representative of Codex also commented on the Codex trust fund that was created in 2003 and had been operational since 2004. The fund allowed LDCs and other developing countries to attend Codex meetings. He encouraged all eligible countries to contact the trust fund and apply. One concern was that there was a significant funding gap for scheduled activities in 2008. Codex only had 30-50 per cent of necessary funds compared to commitments so far. If more funds were not provided, Codex would be obliged to significantly reduce its activities for next year. He called on donor countries, and especially bilateral donor agencies, to contribute to the trust fund.

111. The representative of the OIE noted that the Secretariat had already made reference to the OIE participation in a number of technical assistance activities. With regard to the consultative workshop to be held in Geneva on investment in veterinary laboratories, the OIE saw this as an important area of infrastructure because it underpinned the capacity of a country to conduct surveillance, to report its disease status and to comply with its obligations of reporting diseases. OIE

was developing a winning project where OIE reference laboratories entered into an arrangement to work with a laboratory in a developing country to help them improve their capacity to perform diagnostic protocols and surveillance. The representative reinforced the importance of adequate laboratory performance and welcomed the workshop to be held at the WTO.

112. The representative of the IPPC reported that in April, the IPPC had a workshop in the Kyrgyz Republic which was on international standards for phytosanitary measures for the Commonwealth of Independent States (CIS) and Russian speaking countries of Europe. In May, IPPC had a workshop on phytosanitary capacity evaluation, international standards and pest-risk analysis in Kenya. Another specialist workshop was held in Kenya on the phytosanitary capacity evaluation tool, doing an assessment of the tool to see how appropriate it was. In August, a mission went to Tanzania to identify specific priority activities under the one United Nations system of delivery of which Tanzania was a pilot country. Last month, IPPC held a sub regional workshop in Ghana on pest risk analysis for English speaking countries of West Africa. A second workshop was scheduled for November-December for the francophone countries.

113. The representative of Benin stated that these workshops should go into more depth and develop a strategy of intervention. A lot of tools had been developed but there was little data on the level of use of these instruments in countries. There was a need to have assessments to determine which ones worked in order to achieve change. Various delegations must work together on this issue. He expressed his country's satisfaction in seeing that through the WTO, the three sisters were getting involved. The representative hoped that the various bodies could help the developing countries with regard to becoming more effective in taking action, especially in light of the pest problems faced.

114. The Secretariat stated that the idea behind holding a meeting on capacity assessment tools for SPS was to determine which tools were useful and share experiences with these tools. Through the workshops held so far in September and October, there had been strong involvement, but there was a need to bring the topics to the political level in the future.

115. The representative of the ITC stated that her organization had recently completed the implementation of two Asia Trust Fund (ATF) projects in the fishery sector in Indonesia and Malaysia in June and September 2007, respectively. The one-year projects helped the countries address some of the urgent deficiencies along the fishery supply chain highlighted by the latest EC Food and Veterinary Office (FVO) missions regarding fish exports to the European Communities. In addition, ITC had recently been appointed as the supervisory agency of a STDF project in the fisheries sector in Yemen. The overall objective of the project was to enable the Yemeni Seafood Exporters Association (YSEA) to develop the capacity of its members to better meet SPS requirements and thereby improve the quality and safety of seafood products from Yemen.

116. The representative of IICA summarized the activities that had recently occurred and that were planned for the near future. Detailed information on these activities was contained in G/SPS/GEN/808. He reported on the continuity of the Initiative of the Americas, which facilitated the participation of 26 member countries at this meeting and hoped that the initiative would continue throughout 2008. Furthermore, the introduction of a new project for institutional strengthening, with funding from the STDF, would complement the efforts of the Initiative of the Americas and would be applied to 28 IICA member countries. He thanked the STDF for the trust vested in IICA in order to carry out this far-reaching project. He also summarized several training activities described in the referenced document.

117. The representative of OIRSA stated that information on their activities could be found in G/SPS/GEN/806. He highlighted some of the assistance activities, including workshops on SPS related topics. He also thanked the Spanish Ministry of Agriculture for their invaluable cooperation

with OIRSA members and the USDA for their help in the coordination of several seminars related to avian influenza.

IX. OTHER ISSUES ARISING FROM THE REVIEW OF THE OPERATION OF THE SPS AGREEMENT

(a) Use of ad hoc consultations

118. The Secretariat briefly reported that the NAMA negotiations on an "horizontal" mechanism for the resolution of NTB trade problems continued. Informal meetings were held earlier in the week, however, questions regarding the scope of such a mechanism remained open.

119. The Chairman recalled that the discussions at the last meeting had been rich, but it was not clear how the Committee wished to proceed on this issue. Two key questions were posed by the Chair: should the Committee decide on concrete actions, such as adopting procedures for using "Good Offices", to formalize the procedures for raising specific trade concerns? Or did the Committee consider that the background information provided by the Secretariat and the discussion of this had sufficiently clarified current practices so that there was no need for specific action and consideration of the issue was finalized?

120. The representative of the European Communities raised some question regarding the alternative dispute resolution mechanism. He understood that the mandate for the mechanism in question had its origins in the Doha Declaration itself and was quite specific in that it related to non-agricultural products. Regarding the question of whether it could be expanded to agricultural products, the representative wanted clarification as to whether such a decision would be a ministerial decision or taken by the Secretariat? What implications would this mechanism have on the existing dispute resolution mechanisms provided for in the SPS Agreement itself: would it complement them or replace them?

121. The representative of Chile recalled that during the Review, it had been determined that the alternative dispute resolution mechanism was one of the issues in which the Committee could advance the implementation of the Agreement. There were many options currently being used informally and in parallel with the Committee meetings. In certain instances, countries had resorted to the Good Offices of the Chair. The objective had been to formulate dispute resolution mechanisms as an alternative to using a formal process. Chile had submitted a document regarding this matter and the document prepared by the Secretariat reflected some of the issues that Chile had raised during the review of the Agreement.

122. The representative of Argentina noted that they shared many of the concerns of Chile. His country was very interested in advancing the issue of alternative mechanisms. Regarding the specific trade concerns, although there was no detailed process, the Committee had a very important practice that was clear enough. Where it was not clear was with regard to the Good Offices of the Chairman. This was a valuable alternative that the Committee should further explore so it could be better utilized. The Committee was lacking experience regarding this tool and therefore, the discussions should perhaps focus on to what extent a more detailed procedure could help Members make greater use of this alternative.

123. The representative of Brazil supported the comments made by Chile and Argentina. The representative of New Zealand agreed with Chile and Argentina that the Good Office of the Chair were a useful mechanism that the Committee should explore to see how Members could better use it. New Zealand was unsure whether elaborating a procedure would help in this regard. He suggested that in the next convening Airgramme, the Secretariat could add a simple reference to draw Members attention to the availability of the Good Offices of the Chair.

124. The Chairman stressed that he was always available in regard providing Good Offices.

125. The representative of Japan supported New Zealand's intervention. The proposed procedure under discussion in the NAMA negotiating group was very similar to the existing Good Office procedure, although more prescriptive. From this viewpoint, Japan believed that the Committee could make better use of Good Offices. He noted that disputes related to the SPS Agreement usually included several scientific and technical issues and therefore they might be more effectively resolved through technical assistance activities and the expertise of international standard-setting bodies rather than through dispute settlement procedures.

126. The Secretariat clarified that NAMA was the negotiating group on market access for non-agricultural products so one would normally expect that the proposed mechanism would not cover agriculture products. However, a number of the examples that were given in the early discussions of the horizontal mechanism to help resolve trade disputes included agricultural products and others clearly were in the SPS realm. Therefore, it was not completely clear whether the mechanism would exclude agricultural products. Even if the discussions in NAMA excluded agricultural products, that did not necessarily exclude SPS measures because SPS measures could apply to non-agricultural products such as wood pallets, cosmetics, etc. Decisions would be made by Ministers, either as a Ministerial Decision or as part of the conclusions of the Doha Development Agenda. The question of whether the adopted measures would complement or replace existing SPS mechanisms remained open but the current texts tended to complement rather than replace established mechanisms. In terms of the comments regarding Good Offices, the Secretariat had explained how the process had worked in the past in the background document. It had been quite some time since it had been used. It was up to Members to determine whether the process required further clarification or variation.

127. Given that many Members showed interest in the Good Offices of the Chair, the Chairman suggested this issue be kept on the agenda and that Members provide input in writing before the next meeting.

(b) Relationship between the SPS Committee and Codex, IPPC and OIE

128. The Chairman observed that the Secretariat had presented document G/SPS/GEN/775 at the last meeting of the Committee, but that at the end of the discussions it had remained unclear what was the will of the Committee regarding further work on this matter.

129. The representative of New Zealand recalled that in document G/SPS/W/206, New Zealand had posed a number of questions that could guide the Committee's consideration of this issue. The Secretariat's background document in paragraph 6 had also noted that other Members had suggested that it would be useful to get the three sisters to describe their respective mandates and for this Committee to discuss the optimal process for collaboration and communication with these organizations. He noted that perhaps the questions in the New Zealand paper, as well as the suggestions in the Secretariat paper, could form a basis for discussions on this issue at the next meeting.

130. The representative of Chile supported New Zealand's contributions, along with the suggestions in the Secretariat document regarding the relationship with the three sisters. Several countries made efforts to assist in the increased use of international standards, however, no monitoring procedure existed. Chile believed that all measures should be notified whether or not they differed from the international standards. With the use of the new SPS Information Management System, there would be an even greater monitoring capability. Codex was attempting some monitoring through the regional committees, but it was important to determine whether the other two sisters could do so as well.

131. Regarding the monitoring of the use of standards, the representative of IPPC stated that most IPPC standards were concept standards. At this time, IPPC did not have specific standards, except for ISPM and the irradiation standards that were due to be adopted in 2008. These specific standards could be monitored. Many of the contracting parties might never use some of the standards due to resource constraints. The IPPC had looked at putting in place a possible compliance mechanism to identify which standards countries were having difficulty in applying to ascertain where there was a need for international workshops.

132. The representative of Codex stated that they had finally abandoned the monitoring system on the use of Codex standards. The system had increasingly fallen out of use by members, and only 'standards' and not other texts in the form of guidelines were being monitored. Given that in the context of the WTO there were no distinctions between standards and other related texts, along with its increasing disuse, Codex decided to abandon the system. Codex had decided to keep monitoring on the agenda of all regional coordinating committees; however, the core role of Codex was to set standards and not to oversee their use.

133. The representative of the OIE stated that their position was similar to Codex. OIE had put most emphasis on ensuring compliance with the obligation of countries to report diseases. In the last few years, the OIE had initiated contact with national delegates and actively sought out confirmation of informal rumours of disease outbreaks. OIE had also improved their links with members through the nomination of focal points. The OIE recently asked members to identify focal points in a number of key areas such as disease reporting, aquatic animal health, wildlife problems, use of veterinary products, and animal welfare. This made it easier for the OIE to determine what members were doing in regard to the standards. Monitoring of compliance was not possible given the OIE's current resources, and OIE members had recently been asked to increase their contribution so the OIE was not planning another increase in the near future.

134. The representative of Chile recalled that Article 12.4 stated the Committee should set up procedures for monitoring the use of international harmonization. The Codex Commission had abandoned the Codex monitoring system with the expectation that this SPS procedure would identify whether the Codex standards were being used or not. This issue was very important for SPS-related trade and Members had to know whether these standards were being applied.

135. The representative of IPPC observed that the most important of the IPPC standards were the principles relating to international trade. In this standard, the contracting parties were required to take into account technical justification, transparency, non-discrimination, etc. A country which implemented all of these would have a pretty robust import/export system.

136. The Chairman observed that in the light of the discussions, it was appropriate to look at the questions raised by New Zealand and in the Secretariat document (G/SPS/GEN/775). The Committee should structure a discussion around these questions. He invited Members to submit specific questions in writing before the next meeting.

X. MONITORING THE USE OF INTERNATIONAL STANDARDS

(a) New issues

137. No Member raised any new issue under this agenda item.

(b) Issues previously raised

138. There was no discussion under this agenda item.

XI. CONCERNS WITH COMMERCIAL AND PRIVATE STANDARDS

139. The Chairman recalled the rich discussions on the issue of private SPS standards and the two separate information sessions that had been held with the participation of some of the private standard-creating associations. Now the time had come for the Committee to give some thought as to how it wished to proceed with this issue. Suggestions by Members at the June meeting included keeping the item on the agenda for the SPS Committee, and discussing the impact on market access as well as the legal aspects in conjunction with the TBT Committee. Other suggestions were that the issues related to private standards were best discussed in broad forums such as UNCTAD or the WTO Committee on Trade and Development. Some Members were of the opinion that the Committee's objective could be information sharing and enlightenment of the impacts these standards have on trade. The Chairman identified two questions that could guide the Committee's discussion: (a) was the SPS Committee the best or an appropriate forum for addressing private standards; (b) if so, what should be the focus of the work of the SPS Committee?

140. In relation to the first question, the Chairman clarified that SPS was only one aspect of private standards, which often also covered environmental and social issues. Therefore, it was important to keep in mind that this Committee only had a mandate on SPS-related issues. The Chairman expressed his opinion that discussing private standards in general terms would not be very fruitful. Some had argued that private standards went beyond the work of the SPS Committee and should be addressed in a broader forum as a development issue. Within the WTO, private standards had recently only been brought up within the SPS Committee. The Chair of the TBT Committee had asked Members whether they wanted to discuss the issue, but at the time there was not much interest to do so. The Chairman expressed his view that this could be an indication that the SPS element of private standard schemes was perceived as more problematic than other elements.

141. Regarding the second question, there was the issue of whether the Committee should try to decide upon the legal implications of Article 13. A study commissioned by the Department for International Development (DFID) in the United Kingdom had been circulated as G/SPS/GEN/802, and the Committee could choose to discuss this issue on the basis of this study. The Chairman suggested that it would be better to focus on where the Committee could be helpful in solving problems related to private standards. As suggested in the fax from the Chairman, he thought it would be most useful if the Committee could proceed on the basis of specific experiences and examples from Members regarding problems they faced with private SPS standards.

142. The representative of Kenya expressed appreciation for Members who wanted to keep this matter on the agenda. Regarding the issue of whether the national authorities had a say on the application of these standards in their respective countries, from the supply side of the chain, those who set standards tended to keep the national authorities out of the process of inspections and auditing in horticulture production. So the national authorities were not normally involved in overseeing the regulations pertaining to private standards. Although these standards claimed to be voluntary, in practice they were in fact not voluntary. These standards had positive and negative aspects. But from the supply side, the negative consequences regarding the displacement of small holders outweighed the positive ones. Increased proliferation of these standards was the greatest challenge that the developing world faced. If private requirements could be consolidated into one, then there would be prospects for harmonization which would facilitate the process given that producers would only have to adapt to a single standard rather than three or four different standards.

143. The representative of Egypt clarified that the discussion taking place regarding private standards was not intended to challenge or even to reject these standards. There was a need for more orientation and more understanding on how private standards were developed and applied, who were the stakeholders involved in the private standards, etc. It could not be denied that there was an SPS aspect in these private standards, although the SPS Agreement might not cover the issue completely.

Regarding how to proceed, he noted the SPS Committee had not yet decided whether the SPS Agreement was fully applicable and therefore private standards should not be raised under specific trade concerns. Trying to solve this issue by considering individual cases did not look at the full picture. It was clear that Members would most likely disagree on the legal linkage of SPS and these private standards. The representative of Egypt thanked the United Kingdom for the study. It contained many ideas worth consideration and required further discussion. He highlighted some of the primary concerns listed on page 5, paragraph 2. Egypt did not want to limit the discussion to the development side in forums such as CTD and UNCTAD, and believed that the SPS Committee should be one of the forums where this issue was discussed.

144. The representatives of Australia, Belize, St Vincent and the Grenadines, Uruguay and St Lucia, thanked the United Kingdom for providing the study on the relationship between private standards and the SPS Agreement (G/SPS/GEN/802), although several noted that they needed more time to examine the report.

145. The representative of Australia also thanked the Chair for his opening remarks and stressed that private standards should remain voluntary. Although Article 13 referred to non-governmental entities, Australia did not consider this reason for the Committee to intervene in the development of private sector standards nor should the SPS Committee expand its mandate in this area. Those Members who wished to keep this item on the agenda should table proposals for other Members to consider. Such proposals would need to be specific about what elements of private standards fell within the scope of the SPS Agreement, what provisions of the SPS Agreement might apply, and what solutions or under what mandate the SPS Committee should act to address these concerns.

146. The representative of Belize expressed concern that private standards on agricultural products acted as non-tariff barriers to trade. To the extent that they contained SPS components, they were covered by the SPS Agreement as referred to in Article 1.1. She agreed with Kenya that harmonization would make compliance easier. In addition, Belize was concerned with the transparency component of the elaboration of these standards. Belize supported continued Committee discussions of this issue.

147. The representative of China stated that her authorities had sought input from their business community on this issue. There were three main concerns identified. First, the standards from the standard-setting bodies changed over time and as a result, there was a need to follow the principles of predictability and transparency. The second issue was that the private standard-setting bodies relied on dozens of certifying bodies to issue certifications and sometimes there was a lack of consistency among the certifying bodies. The third point was that there was a need for training and demonstration activities so that farmers could understand the requirements of the private standards. The business community hoped that by maintaining dialogue with private standard setting organizations through the SPS Committee, private standard bodies could be encouraged to make some efforts in the above areas.

148. The representative of Zambia agreed that private standards posed a challenge to exporting countries, and that the item should remain on the agenda. The SPS Committee should reach a conclusion in terms of what falls under TBT and what falls under SPS.

149. The representative of the European Communities pointed out that the Committee's discussion on this issue to date had sensitized the standard-setting bodies to the impact of their measures on developing countries. They had received a clear message that they had to take into account these needs. It appeared that the private standard-setting organizations were making a real effort to work on this issue, not for altruistic reasons but because they realized that failure to do so would create problems for them. Hopefully the Committee would be able to judge the success of their efforts over time. Private standards did not replace official EC standards and import requirements. For the

discussion to be more useful in the future, there needed to be a more specific focus on what products, which markets, and what measures created problems.

150. The representative of Japan agreed with the opening statement of the Chairman and the need for discussions to be more focused on specific cases in order to make discussion fruitful.

151. The representative of St. Vincent and the Grenadines supported keeping the matter of commercial and private standards on the agenda. There were certain areas where Members could bring more specifics to the table.

152. The representative of Senegal noted that private standards were becoming ever more demanding. Many standards from the three sister organizations already posed problems for developing countries, now private standards created numerous problems because often they were specific to certain countries or certain markets. Senegal suggested that the Committee look at some of these standards domain-by-domain to see if they could be integrated into the SPS Agreement. Continuing a very general discussion was not useful.

153. The representative of Canada stated that they agreed that private standards could pose costs and challenges to producers in developing countries. However, Canada believed that private standards went beyond SPS measures since they were not government measures, but private commercial measures that responded to consumer demands, concerns with particular production methods, as well as social and environmental issues. Canada agreed that private standard-setting bodies should be encouraged to involve producers from both developing and developed countries in the standard setting processes and develop programmes to assist developing country producers through their certification processes. Canada's understanding was that the SPS Agreement covered government mandated measures and was not intended to be applied to private standards. If the SPS Committee were going to continue looking at private standards, there was a need for more specific questions and not a general discussion.

154. The representative of Cuba agreed that this item be maintained on the agenda so the Committee could continue this rich debate.

155. The representative of Chile endorsed the questions posed by the Chairman as to whether this was the appropriate forum for the issue and the question regarding the legal study of the issue. Chile believed that the Committee should continue discussing this issue, especially the consequences and the impact it had today and would have in the future. A legal study regarding the WTO framework would be useful, as there could be trade barriers because of these standards and the Committee must be able to distinguish between the aspects that were outside of its mandate and those which could be examined by this Committee.

156. The representative of Uruguay shared the view that the issue should remain on the agenda. The debate on the issue might give a clearer view on how to proceed and developing countries found it very difficult to follow an issue such as this one when it was being discussed in various different fora. Giving specific examples of issues was a good way to proceed.

157. The representative of the United States shared the views expressed by Australia and Canada, including the understanding of the Committee's limited jurisdiction and the sense that the Committee's information sharing efforts had been beneficial in increasing Member's common knowledge. US exporters had also experienced some of the same problems described by many Members. The United States was willing to discuss the relevance of private standards within the SPS Committee, on the basis of specific proposals submitted by Members.

158. The representatives of Barbados, Bolivia, Bangladesh and Zimbabwe all supported proposals that the item be kept on the agenda and that specific examples of cases where private standards had affected markets should be identified during the next meeting.

159. The representative of Mauritania stated that it was very important that this issue be discussed in future meetings so that the Committee could establish the difference between voluntary and mandatory standards. He appreciated the EC clarification that private standards were always secondary to the official requirements for imported products. There was a need for more information so technical assistance could be more effective in this area. Technical assistance, however, should be directed towards the mandatory standards first, with lesser concern for voluntary private standards.

160. The representative of Peru also shared the view that this item should remain on the Committee's agenda. Articles 1.1 and 13 of the Agreement required Members to ensure that non-governmental entities and regional organizations operating in their territories respected the provisions of the SPS Agreement. Developing countries were doing everything they could to respect SPS standards, but private standards went beyond their capacity to comply.

161. The representative of Paraguay stated that his country was concerned with private standards that were not in line with ISO, which were increasing at a rapid pace. Many of these standards were stricter than those of Codex and therefore they were obstacles to trade and created confusion among consumers. Paraguay believed that this item should be maintained on the agenda.

162. The representative of Ecuador also requested that this item remain on the agenda. The Committee could work on harmonization and transparency, for example. Obtaining specific examples was difficult because many producers did not want to share information for fear of losing market share. Therefore Ecuador suggested that examples of a more global nature could be considered.

163. The representative of El Salvador suggested that it was necessary to seek a legal opinion to define the issue. Annex A of the SPS Agreement clearly made no distinction between private and official SPS measures. El Salvador agreed that private standards be maintained on the agenda.

164. The representative of Niger supported Senegal's position. Official standards were vetted through official focal points and perhaps there could be a private focal point or contact point regarding private standards.

165. The representative of Argentina expressed the view that some of the private standards were within the SPS realm, particularly those related to food safety. These standards could possibly be covered by Articles 1 or 13, and therefore Argentina believed that the Committee should continue discussing the issue. This issue could be addressed through a global systematic debate of the relationship between these standards and the relevant articles, or through consideration of specific cases. Argentina considered that the method of concrete examples could be an appropriate way of dealing with the issue.

166. The representative of Saint Lucia expressed their desire to keep private standards on the agenda. There should be further analysis to find ways and means of dealing with private standards that were not scientifically based or not necessary. Developing countries should come up with quantifiable evidence to inform the discussion and allow some resolution.

167. The representative of Senegal gave an example regarding fruit and vegetable exports from his country. Two or three EC member States required certification of those products in the framework of EurepGap, which required good agricultural practices, traceability and the codification of products even before they left Senegal. These requirements had become a real barrier to trade.

168. The representative of Egypt noted that examination of specific examples would not provide a basis for the Committee to resolve issues with regard to the SPS Agreement. He also referred to paragraph 15 in document G/SPS/GEN/746, a background note from the Secretariat on private standards, which stated that Article 1.1 of the Agreement applied to all SPS measures which may directly or indirectly affect international trade without explicitly limiting this application to SPS measures taken by governmental authorities. In addition, the definition of an SPS measure in Annex A.1 and the accompanying illustrative list of SPS measures did not explicitly limit these to governmental measures. As to whether Members should present studies and evidence to prove that private standards were under the umbrella of the SPS Agreement, he suggested that the burden of proof should rather be on the other parties. Members should come up with evidence to prove that private standards were not under the umbrella of the SPS Agreement.

169. The Chairman noted that this issue would be kept on the agenda given the overwhelming interest expressed by Members. Even if the legal scope of the SPS Agreement was not clear on this issue, the Committee still provided a useful forum for discussions. The Chairman requested Members to bring specific examples and specific proposals to the table to focus the discussions at the next meeting.

170. The representative of Egypt, commenting on the Chairman's recommendations, stated that specific examples already existed in studies by UNCTAD, OECD, etc. These specific cases would not help solve the whole issue. What was required was a determination of whether these issues could be solved under the SPS Agreement.

171. The representative of Senegal stated that there was a need to assist Members with this issue or else developing countries, and especially LDCs, would no longer be able to export anything.

172. The Chairman noted that there was no agreement on the scope of Article 13. However, the Committee could try to influence the private standard-setting bodies. If Members provided examples of specific problems this could facilitate discussion of the scope of Article 13. Members were also welcome to submit proposals on the legal framework issue for discussion at the next meeting.

XII. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

173. The Chairman recalled that in accordance with Paragraph 18 of the Protocol of Accession of the People's Republic of China, the SPS Committee was to undertake an annual review for eight years of the implementation by China of the SPS Agreement. He opened the floor for comments or questions from Members.

174. The representative of the United States recalled that in its submission for the 2007 transitional review (G/SPS/GEN/213), the United States had presented a comprehensive account of its concerns. These related to China's: (1) sanitary regulations applied to US products with the stated purpose of preventing the introduction of BSE, avian influenza, food-borne pathogens and residues; (2) varietal restrictions on apples; (3) lack of transparency; and (4) implementation of national treatment obligations. A few of the concerns that had particular importance since they had been going on for many years. The first concern related to China's continued imposition of BSE-related restrictions on imports of beef and beef products from the US that far exceeded those recommended by the OIE. In May 2007, the OIE classified the United States as a controlled risk for BSE. The OIE recognized that trade in beef and beef products from cattle of all ages from a "controlled risk" country was safe, provided that certain slaughter and beef processing conditions were met, including the removal of specified risk materials (SRMs). The United States requested China to explain why it had failed to base its measures on OIE guidelines regarding the import of US beef and beef products, in accordance

with Articles 2 and 5 of the SPS Agreement, and to provide a copy of its risk assessment if China had performed one.

175. The United States was also concerned that China imposed additional BSE-related import restrictions on US protein-free tallow, a product which was recognized by the OIE as safe to trade regardless of the BSE status of the exporting region. On this issue, China was requested to explain its failure to base its measures on OIE guidelines.

176. Another important concern of the United States regarded China's de-listing of US poultry establishments based on a zero-tolerance requirement for certain pathogens, such as salmonella on raw meat and poultry products, inconsistent with the Codex standards. China appeared to mistakenly apply Codex standards for ready-to-eat products to raw products. This requirement was unnecessarily trade restrictive within the meaning of Article 5 of the SPS Agreement. Furthermore, it seemed that China did not enforce this zero-tolerance requirement to domestically produced meat and poultry products. The representative of the United States asked China to explain if and how it applied its zero-tolerance requirement to its equivalent domestic products, and if this were not the case, requested China to review its domestic enforcement to ensure conformity with Article 2.3 of the SPS Agreement.

177. Finally, the representative of the United States highlighted concerns regarding residue standards. China had de-listed several US pork establishments due to its ban on ractopamine, a swine-feed ingredient. This restriction was based on a blanket ban of drugs called beta-agonists. However, the United States was unaware of any risk assessment conducted by China to evaluate ractopamine. Codex had established a draft standard (MRL) for ractopamine based on recommendations from the FAO/WHO Joint Expert Committee on Food Additives. The draft standard for ractopamine would be considered for final approval at the July 2008 meeting of the Codex Alimentarius Commission. In this context, the United States asked China to explain how it had taken Codex recommendations into account in the development of its ban on ractopamine and asked whether China had completed a risk assessment.

178. The representative of the European Communities welcomed further improvements in the relationship between China and the European Communities including improvements in bilateral consultations between the Chinese authorities and EC member States. The European Communities also welcomed recent Chinese efforts to improve food safety and to increase pre-export testing of consignments. However, the European Communities regretted that the notification process, which had started well, is now dramatically slowing down despite China's increase in legislative activity in the SPS area. Furthermore, China had not yet aligned its animal health legislation to the OIE guidelines, although adherence to OIE was a fundamental requirement for WTO Members.

179. The European Communities also encouraged China to improve its national information network, in other words, the flow of information between the competent national and regional services in order to avoid inconsistency in SPS measures or procedures.

180. The European Communities welcomed China's notification G/SPS/N/CHN/100, which brought important changes to the existing rule for exports to China of cosmetic products. In particular, the proposed change modified the management measures for cosmetics imported from BSE-infected areas in accordance with the recommendations of OIE. However, the European Communities was otherwise concerned about China's interpretation of OIE guidelines on BSE. The OIE issued a list of bovine products which could be safely traded, regardless of the BSE status of a country, among which was de-boned skeletal muscle meat from cattle 30 months of age or less. Despite these guidelines, EC beef and bovine meat products were still banned by China. In addition bovine semen and embryos were subject to restrictions in China in contradiction to the recommendations of OIE.

181. The European Communities also highlighted the currently limited access to the Chinese market for food products, due largely to imposition of restrictive SPS standards. The enforcement of food controls in China placed reliance on end-product testing, that often created a significant barrier to trade.

182. Lastly, the representative of the European Communities indicated that compliance with the Chinese plant regulatory import system was unjustifiably difficult in that many of the import requirements went beyond the IPPC recommendations. However, recent communication flow between the European Communities and the Chinese authorities had improved considerably and that the European Communities welcomed the positive attitude shown by China in this regard and looked forward to more efficient, rapid Chinese procedures.

183. The representative of China thanked the United States and the European Communities for their comments and questions. She stated that the competent authorities had been actively engaging in dialogues with their counterparts in the United States and the European Communities in the spirit of finding mutually satisfying solutions to issues of interest to all sides. Issues identified in the submissions had also appeared on the agendas of bilateral talks.

184. Some of the issues had already been covered in the Committee meeting. She commented therefore on some of the other issues. According to the relevant OIE guidelines, controlled BSE risk countries should trace and supervise relevant cattle relating to BSE cases, and such cattle should be destroyed. However, complete tracing of cattle related to BSE cases had not been fully realized in the United States, and in some cases, the related farms were not even found. Again, according to relevant OIE guidelines, feed bans should be effectively enforced, and ruminants should not be fed with meat, bone meal and tallow derived from ruminants. Unfortunately, the United States did not seem to have a policy in place to ensure these requirements were met. As the United States recognized in their submission, China had agreed to resume import of US boneless beef from animals up to 30 months of age in July 2006, and then had agreed this year the resumption of bone-in beef from animals up to 30 months of age. These decisions were in line with relevant OIE guidelines. The competent authorities were not convinced that it was safe for China to import other US beef. China hoped that the US Government would strictly follow the feed ban recommended by the OIE, establish a complete tracing system for cattle, and ensure the security and traceability of beef exported to the Chinese market. China encouraged the United States to work with Chinese authorities to first resume trade in beef from animals up to 30 months of age.

185. As to protein-free tallow, the representative of China recalled that the OIE guidelines indicated that only protein-free bovine tallow, of which the content of infusible impurity was less than 0.15 per cent, could be traded freely, and any bovine products containing SRM should not be traded. China permitted protein-free tallow meeting its regulations as well as the international standard to enter its market.

186. China was revising its sampling plans and microbiological criteria for food-borne pathogens, which would be identical to those of International Commission on Microbiological Specifications for Foods (ICMSF), and completed in 2008. Once these new criteria were established, China would conduct a review and set the maximum microbiological limits in food commodities accordingly. Regarding residue standards, China did not allow ractopamine, a beta-agonist, as a swine-feed ingredient due to its cumulative nature. Consumption of meat from swine treated by ractopamine could cause side-effects to the human heart and nervous system. For this reason, the use of ractopamine was forbidden in over 160 countries and regions.

187. The representative of China noted that transparency was an important principle in the SPS Agreement and the Committee was well aware of what China had done in the past six years to contribute to the transparency discussions and fulfil its obligations under the SPS agreement. China

had a mechanism to ensure that SPS measures falling into the criteria of those to be notified under the SPS Agreement were notified. Among the 21 measures identified by the United States some were notified a long time ago, some were established for domestic management only, and others were meant to intensify quality and safety of products for export and so were actually trade facilitating measures. China's understanding of transparency under SPS was that they notified what they found necessary to notify instead of all measures. Notifying measures complying with international standards which had no significant trade effect increased the burdens to trading partners, especially developing country Members. Yesterday, China submitted three new SPS notifications to the Secretariat for circulation, and again it managed to provide a 60-day comment period starting from the date of circulation by the Secretariat.

188. The representative of China emphasized that treatment of products produced domestically or imported is the same. There was always the possibility for an exporter or importer to lodge a complaint and or ask for re-inspection of the goods if these were found by Chinese port inspection and quarantine authorities to be non compliant.

189. The Chairman informed the Committee that he would make a short factual report of the transitional review to the Council for Trade of Goods, subsequently circulated as G/SPS/47.

XIII. MATTERS OF INTEREST ARISING FROM THE WORK OF OBSERVER ORGANIZATIONS

190. The representative of OIE drew attention to their report in document G/SPS/GEN/801. In addition to important topics such as export of livestock commodities and the development of the zoning concept, she highlighted that the report contained an update on the recent discussions from the Terrestrial Health Standards Commission. The OIE would be convening two international conferences in conjunction with Codex: one on animal welfare in October 2008 in Cairo and the other on animal identification and traceability at the beginning of 2009. The third part of the report contained a statement from the Director General of the OIE where the role of veterinary services, the control of animal diseases and the improvement of animal production were presented as a key economic factor for development, especially for developing countries and LDCs. The OIE urged the international community and international donors to invest in veterinary services. She commented on OIE's use of the PVS tool, which was a tool to help direct and focus the attention of donors and of veterinary services globally to help strengthen this essential element of infrastructure.

191. The representative of the European Communities thanked the OIE for the update and stated that the European Communities considered the PVS tool to be very constructive for upgrading veterinary capacity in developing countries. The challenge was find the necessary resources to carry out the investment in upgrading infrastructure. The European Communities was actively looking to mobilize the necessary financial resources to assist the OIE in promoting this initiative.

192. The representative of the IPPC brought to the Committee's attention IPPC's work plan described in G/SPS/GEN/805, which gave an update on the international standard-setting programme, as well as the five year business plan for the Commission on Phytosanitary Measures. The first section of this document gave a basic overview of the IPPC while the second explained the IPPC's strategic direction based on seven five-year goals. Given that there was shortfall in resources, the representative stressed the final part of plan which looked at the resource requirements. Seven regional workshops on draft ISPMs had good feedback but were a little disappointing in that the original concept was that they would be part of the standard setting process and not a capacity building or technical assistance workshop. Therefore, the IPPC would like to encourage Members to come to these workshops prepared with feedback from their own country on how the draft standards needed to be modified, if at all. The representative also mentioned a possible compliance mechanism for the IPPC. The IPPC would take the approach that rather than be a punitive or enforcement

mechanism, it would be used to ascertain those areas in which there were difficulties in understanding or applying a particular standard and therefore to be able to direct the development of workshops as required. Lastly, it was noted that the IPPC operational plan for 2008 had almost been completed.

193. The representative of Codex highlighted their report contained in G/SPS/GEN/809. The representative reported on the major outcomes of the 30th session of the Codex Alimentarius Commission that took place in early July. The document listed over 40 new standards adopted by the Codex Alimentarius Commission. Among standards that were approved by the Commission were the working principles for risk analysis in food safety for application by governments; the revised document on the guidelines for design, production, issuance and use of generic official certificates; and the principles and guidelines for the conduct of microbiological risk assessment. The Commission also adopted a second medium term strategic plan for the Codex Alimentarius Commission. Codex currently had 174 member countries and one member organization, and it had been in consultation with Bosnia-Herzegovina which was sending an instrument of accession. The 31st Session would be held June 2008 in Geneva and it was hoped there could be synergy between the Codex session and the SPS Committee meeting. Codex in collaboration with OECD was creating a new international database that would cover the approved genetically modified plants in member countries.

194. The representative of the European Communities noted the importance of the three sister organizations to the SPS Committee and their official recognition under the SPS Agreement. He encouraged developed countries to continue to find the resources necessary to enable the participation of developing countries at the meetings of these standard-setting bodies.

195. The representative of Senegal thanked Codex for all of the standards they had developed and which were now references for most developing countries. The main problem was the utilization of these standards, and the need for follow up training on Codex standards. The IPPC, for example, had follow-up activities with workshops on implementation of standards, and something similar would be helpful with respect to Codex.

196. The representative of Australia reiterated the European Communities' comments regarding the need for funding of the three sisters. She noted that the evaluation of the IPPC that was finalized earlier this year discussed the important role that IPPC plays in developing phytosanitary standards. In particular the evaluation highlighted the need for sufficient funding from the FAO to adequately resource the IPPC Secretariat as well as support experts from developing countries to participate in standard-setting processes. Australia urged SPS Committee delegates to reinforce the importance of the IPPC to their representatives participating in the FAO Conference so as to ensure that the IPPC received sufficient funding for 2008 and 2009.

197. The representative of OIRSA informed the Committee that during its 44th extraordinary meeting held in May 2007, the International Regional Council for Plant and Animal Health approved a new organizational structure and strategy for the support of the agro-food chain. As a result, it would be possible for OIRSA activities in the areas of food safety as well as plant and animal health to have a more direct impact on the production sector by strengthening its competitiveness.

198. The representative of ISO highlighted a successful open session held during the 30th General Assembly in September in Geneva, entitled International Standards and Public Policies. It addressed the complementary role of the international standards in supporting public policies and technical regulations in such areas as the environment, health, safety and security. He also announced the recent publication of an information document geared toward regulators entitled "Using and Referencing ISO and IEC Standards for Technical Regulations", which was available for free on the ISO website.

XIV. OBSERVERS – REQUEST FOR OBSERVER STATUS

199. The Committee agreed to invite those organizations which had been granted observer status on an ad hoc, meeting-by-meeting basis to participate in its next meeting. The Committee also decided to invite all observer organizations to participate in its next informal meetings.

200. The Committee was unable to reach any decision with regard to the requests for observer status from the Office International de la Vigne et du Vin (OIV), from the Asian and Pacific Coconut Community (APCC), and from the Convention on Biodiversity (CBD), and agreed to revert to this matter at its next meeting.

201. The Chairman informed the Committee that a request for observer status had been received from the Gulf Cooperation Council Standardisation Organization (GSO). Information provided by the GSO was available in document (G/SPS/GEN/121/Add.3). The representative of Egypt stated that they were not in a position to consider a decision on this request pending consultations with the Arab group. It was agreed to revert to this matter at the next meeting.

XV. CHAIRPERSON'S ANNUAL REPORT TO THE COUNCIL FOR TRADE IN GOODS

202. The Chairman announced his intention to make a brief, factual annual report on the activities of the SPS Committee in 2007 for consideration by the Council for Trade in Goods. The report was subsequently circulated as G/L/842.

XVI. OTHER BUSINESS

Brazil – Meat exports to China

203. Regarding Brazilian meat exports to China, the representative of Brazil informed Members that since the last session of the Committee, Brazil and China had held a bilateral meeting and they were hopeful to resolve this issue through more bilateral dialogue in the near future.

Canada – Update on avian influenza

204. The representative of Canada gave an update on avian influenza (AI). In September of this year, highly pathogenic H7N3 AI was detected on one farm in the Canadian province of Saskatchewan. The Canadian Food Inspection Agency moved swiftly to implement movement controls, humanely depopulate the birds on the affected farm, and clean and disinfect the premises. A surveillance program had been implemented. To date there had been no additional occurrences of the disease. The Canadian Food Inspection Agency's actions were consistent with OIE recommendations and guidelines. Canada was pleased that many Members had quickly applied the concept of regionalization consistent with OIE guidelines and Article 6 of the SPS Agreement. For example, the United States, Chinese Taipei, Hong Kong, China, Chile, Turkey, Thailand, Jamaica, Guatemala, Philippines, Croatia and Russia had regionalized to the province of Saskatchewan. The European Communities had regionalized to the 10 km restricted area. Other Members had not as yet applied the concept of regionalization but instead had placed bans on poultry and poultry products from all of Canada. Canada requested that these countries re-evaluate their restrictions.

205. The representative of the European Communities noted that Canada had done an excellent job in respecting its OIE obligations in first detecting the outbreak and then taking the necessary control and eradication measures. In recognition of this work, the European Communities was pleased to be able to regionalize Canada as quickly as possible. It was disappointing that other Members seemed to have problems in acting promptly to recognize Canada's actions. Practical on the ground measures were the real measure of how committed Members were to key concepts such as regionalization.

XVII. DATE AND AGENDA FOR NEXT MEETING

206. The next meeting of the Committee is tentatively scheduled for 2-3 April 2008, with informal meetings scheduled for 30 March and 1 April 2008. The relevant deadlines for submitting items for the agenda are as follows:

- (i) For providing specific comments or suggestions on the Recommended Procedures on Transparency (G/SPS/W/215): **Thursday, 15 November 2007;**
 - (ii) For identifying new issues for consideration under the monitoring procedure, and for requesting that items be put on the agenda: **Thursday, 20 March 2008;**
 - (iii) For the distribution of the airgramme: **Friday, 21 March 2008.**
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