

# WORLD TRADE ORGANIZATION

RESTRICTED

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## Committee on Sanitary and Phytosanitary Measures

### SUMMARY OF THE MEETING HELD ON 19-20 MARCH 1997

#### Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures ("the Committee") held its seventh meeting on 19-20 March 1997, under the chairmanship of Ambassador Kari Bergholm (Finland). The agenda, proposed in WTO/AIR/550 with addendum, was adopted with amendments.
2. The Secretariat reported on some problems encountered in the preparation of the agenda for meetings. As had been agreed in the Working Procedures (and proposed Rules of Procedure), the agenda was to be circulated at least ten days in advance of each meeting. Members were urged to make every effort to notify issues they intended to raise at forthcoming meetings as far in advance as possible, preferably no less than twelve days prior to the meeting. In doing so, Members were requested to indicate the desired agenda item(s) under which the proposed issues would be raised. This would permit the Secretariat to circulate a complete agenda at the appropriate time.

#### **Observers**

3. The Committee agreed that *regular* observer status be granted to the Joint FAO/WHO Codex Alimentarius Commission (Codex), the FAO International Plant Protection Convention (IPPC), the Office international des épizooties (OIE), the Food and Agriculture Organization of the United Nations (FAO), the World Health Organization (WHO), the International Organization for Standardization (ISO), the International Trade Centre (ITC) and the United Nations Conference on Trade and Development (UNCTAD). The observer status conferred upon the World Bank and the International Monetary Fund (IMF) through separate agreements taken by the General Council in November 1996, was noted. It was furthermore agreed that the Chairman would undertake informal consultations with interested Members regarding five further requests for observership.

#### **Rules of Procedure**

4. The proposed Rules of Procedure, as previously amended (G/SPS/W/48/Rev.1), were adopted. The Chairman recalled that the Committee would continue to operate on the basis of its Working Procedures (G/SPS/1) until the Rules of Procedure had been endorsed by the Council for Trade in Goods.

## **Implementation of the Agreement - Information from Members**

### *BSE and the SPS Agreement*

5. The representative of Switzerland introduced a paper on bovine spongiform encephalopathy (BSE) in relation to the SPS Agreement (G/SPS/W/79). Switzerland, a country of "low incidence" of BSE, had been subject to a number of trade restrictions not all of which, according to the Swiss representative, could be justified under WTO rules. While he recognized that scientific uncertainties remained, and that sanitary authorities could adopt measures to protect the health of their countries' bovine cattle herds and their populations, distinctions had to be made between legitimate protection and unjustifiable discrimination between WTO Members. About 30 countries had adopted trade restrictions relating to BSE which affected Switzerland. Apparent violations of WTO obligations fell primarily, but not exclusively, within the scope of the SPS Agreement. The Swiss representative requested the Chairman to organize informal consultations with Members concerned, and suggested that the Committee give priority to the issue.

6. Several delegations welcomed the Swiss paper, agreeing that this was a current issue of wide interest and with significant repercussions on international trade of meat and meat products. Most members supported the suggestion that the Chairman conduct informal multilateral consultations, although several noted that the Committee did not have the capacity to judge the legality of border measures in this regard. It was **agreed** that the Chairman hold informal consultation on 21 March 1997, open to all interested Members. Swiss government experts would make a more detailed presentation and provide documentation for the occasion. The consultations would be restricted to the scope of the SPS Agreement and participation of observer organizations would be considered at a later stage.

### *French certification requirements for pet food*

7. The representative of the United States expressed concern with regard to the implementation of French certification requirements on pet food in September 1996. The measures in question, adopted under French national legislation, had blocked US exports of pet food to that market and had not been notified to the WTO. Subsequent bilateral exchanges with France had produced no progress towards the resolution of the issue.

8. The representative of the European Communities regretted that their internal procedures with regard to notification of national measures had delayed notification of the French measure in question. According to this procedure, national regulations had to be cleared at the EC level before being notified to the WTO; there was otherwise the risk that a national notification was made and then withdrawn because of non-conformity at the EC level. Referring to the individual measure in question, the EC representative noted that it was of a "safe-guard" type, and, as such, would only have been subject to comments subsequent to entry into force. The measure required that specified risk material be excluded from entering into the rendering system where it might be used for the production of, among other products, pet food. The measure had been taken on the basis of discussions and recommendations at the EC Commission level, recommendations by the WHO, as well as parallel scientific discussions in both the United Kingdom and France.

### *Israeli sanitary measures affecting imports of bovine meat*

9. The representative of Uruguay informed the Committee that Israel had decided to adopt, as of 1 April 1997, measures which would restrict trade in meat because of BSE-related concerns. The measures included the requirement that bovine meat exported to Israel come from cattle with a maximum

age of 36 months. Furthermore, the measure was apparently to be applied irrespective of the sanitary conditions in the country of origin. The effect on bilateral trade was potentially serious.

10. The representative of Uruguay stressed that no cases of BSE had been discovered in Uruguay, and that the relevant international recommendations were followed rigorously. Uruguay had provided Israel with all information required. Supported by both Brazil and Argentina, Uruguay expressed the view that Israel, in this respect, was not in conformity with the SPS Agreement, primarily because of an unclear scientific basis for the proposed measures. In addition, WTO Members had not been notified in line with the SPS Agreement.

11. The representative of Israel informed the Committee that Israel had notified exporting countries of the planned measure and that their action had been based on a questionnaire sent from Israel's veterinary services (Ministry of Agriculture) to their counterparts in beef exporting countries. Nevertheless, the representative took note of the concerns expressed and affirmed that an official response would be provided upon consultation with his government.

#### *Phytosanitary issues in general*

12. The representative of the United States drew the Committee's attention to a number of generic issues of concern with regard to phytosanitary trade restrictions. He noted that the mere existence of a plant disease or pest in traded agricultural goods did not necessarily constitute a risk to the importing country. If a certain pest or disease, because of scientific reasons, could not establish itself in the area into which it was being imported, trade restrictions were unlikely to provide significant additional health protection. Likewise, where the plant disease or pest was already prevalent in the country to which it was being exported, import controls were unlikely to serve any significant health objective. The US representative urged Members to ensure compliance with the principle of national treatment as well as other key provisions of the WTO and the SPS Agreement, in particular Article 6 thereof.

#### *Polish restrictions on wheat and oilseeds*

13. The representative of the United States noted that Poland had a long history of importing US wheat and oilseeds and questioned the phytosanitary health purpose for Poland's current restrictions. Many of the weed seeds currently subject to the restrictions in question existed on a world-wide basis; some of them were even known to be established in Poland. The US representative urged Poland to review its policy in order to ensure that it was consistent with WTO requirements.

14. The representative of Poland replied that the measure in question did not, in practice, affect trade between the two countries. No shipment of US grain or oilseeds had been rejected because of quarantine risk occurrence. Poland assured the United States that it would provide a detailed explanation of its measures.

#### *Panama's requirements for certification of consumer rice*

15. On a similar issue, the US representative informed the Committee that Panama required imports of consumer rice to be certified free from the fungus *tilletia barclayana* (Kernel smut). Given scientific evidence that this fungus already existed in Panama, the United States questioned the basis for such a requirement. Furthermore, the United States maintained that scientists agreed the fungus in question could not be transmitted through milled rice, which was the product affected by the restriction. Moreover, Panamanian officials had allegedly suggested that current domestic supply conditions had

influenced their decisions. The representative of Panama replied that she was awaiting a report from her capital and would forward it to the US Department of Agriculture (USDA).

*Brazilian restrictions on imported wheat*

16. According to the representative of the United States, Brazil had implemented restrictions on imports of wheat intended to prevent the establishment in Brazil of the fungus *tilletia controversa* (TCK bunt or Dwarf bunt). However, a 1996 bilateral agreement between the two countries was based on the understanding that the fungus in question could not be established in Brazil, and the United States was not aware of scientific evidence that might alter this conclusion. The representative of the United States stressed that although his authorities could comply with the Brazilian requirements as such, they were concerned with the nature and substance of those requirements.

17. The representative of Brazil noted that as a result of harmonization efforts being carried out by Mercosur, Brazil had implemented new legislation on risk assessment and risk management for several products. As an integral part of the new legislation on pest control, a certificate of origin was currently required for wheat, in order to assert that the product originated in a pest-free zone. The representative of Brazil noted that extensive bilateral negotiations had been held with the United States since 1995, and that derogations from the Brazilian law had been granted on more than one occasion, but had recently not been extended. She stressed that the Brazilian plant health regulation was in full compliance with the relevant WTO Agreements. Furthermore, scientific consultations between Brazilian and US experts had yet to produce a final report on the risk posed by *tilletia controversa* and *tilletia indica* (Karnal bunt). Neither did the bilateral protocol preclude Brazil from applying its internal legislation and requiring the aforementioned certificate of origin.

*Chile's restrictions on imports of wheat and fruit*

18. The representative of the United States expressed concern with regard to restrictions on exports of wheat and fruit destined to Chile from US ports in areas free of pests. The US representative stressed that this was an example of a failure to recognize regional conditions in line with the SPS Agreement, as well as IPPC guidelines relating to pest-free areas.

19. With regard to wheat, the representative of Chile noted that the United States had not asked Chile to recognize areas free of *tilletia indica* (Karnal bunt). In March 1996, when the United States informed Chile about the presence of *tilletia indica*, Chile did not suspend US imports, but modified the conditions governing entry and requested the USDA to provide certification of areas free from infestation of the fungus as a condition for entry. According to the representative of Chile, the United States did not accept this approach and further bilateral consultations had since been held. Regarding fruits, the representative of Chile stressed that his country had recognized areas free of the fruit flies *anastrepha fraterculus* and *ceratitis capitata* (Mediterranean fruit fly) in the state of California and that this would facilitate the conditions of entry for US exports. The full statement of the representative of Chile is contained in document G/SPS/GN/14.

*Korean shelf-life requirements for UHT milk*

20. The representative of Australia recalled the on-going bilateral discussions between Australia and Korea regarding shelf-life requirements for Ultra Heat Treated (UHT) milk. Although the issue had first been raised at the Committee's May 1996 meeting, Korea had yet to implement a manufacturers' determined shelf-life for UHT milk. He reiterated that the current government-mandated shelf-life

period of seven weeks was too short and not based on sound scientific evidence. In November 1996, the Australian government had provided a further submission of scientific nature to the Korean authorities, which had not been accepted. Subsequently, upon request, another submission had been provided and he urged Korea to process the recent submission in an expedient manner.

21. The representative of Korea informed the Committee that his authorities were reviewing the information provided by Australia. He noted that Korea's new system for shelf-life determination, which had been initiated in 1995, set a time frame for the implementation of manufacturers' determined shelf-life period for UHT milk.

### **Consideration of Specific Notifications Received**

22. The representatives of Australia and the United States sought clarification with regard to the scope of the Indonesian regulation on fresh fruit and vegetables notified in **G/SPS/N/IDN/2**. In bilateral discussions with Australia, Indonesian authorities had raised a particular problem arising from national practice which apparently precluded the circulation of draft regulations. Both the United States and Australia urged Indonesia to consider legislative adjustments that would enable WTO Members to receive information on proposed measures sufficiently in time to be assessed. The representative of Australia expressed his appreciation that Indonesian authorities had made substantial efforts to meet requests for additional information. The representative of Indonesia regretted that the draft regulation had not yet been finalized, but assured the Committee that a document containing detailed information about the proposed regulations would be provided in due course.

23. The representative of the European Communities brought the Committee's attention to a Brazilian notification regarding procedures to be observed by exporters of wine to Brazil, contained in notification **G/SPS/N/BRA/13/Rev.1**. It remained unclear to the European Communities what requirements exporters faced. The scientific rationale behind the requirement that individual establishments endeavouring to export wine to Brazil had to be inspected was questioned. Likewise, the representative of the European Communities expressed concern over certification requirements for individual consignments rather than general, generic type of certification. The nature of requirements asked of Brazilian producers themselves was questioned. The representative of Brazil noted that, in accordance with WTO rules, the proposed legislation would not be adopted before 16 May 1997, and that the full text of the proposed legislation was available at the Brazilian Enquiry Point. She maintained that the proposed legislation was in conformity with the SPS Agreement and was furthermore not substantially different from legislation in place in several European countries. Brazil remained open for bilateral discussions on the subject.

24. In the opinion to the European Communities, the policy set out in the Canadian notification on Proposed Zoosanitary Import Policies Pertaining to BSE, contained in **G/SPS/N/CAN/18**, went beyond what could be scientifically justified and was furthermore not in conformity with the OIE Code. The representative of the European Communities noted that: i) no distinction was made between high and low incidence countries; ii) there were provisions for whole-herd slaughter and slaughter of mother as well as of progeny despite BSE not being considered as a herd disease and unfinalized investigations on maternal transmission; and, iii) the Canadian policy required BSE to have been notifiable for six years under an active surveillance programme and that imports would be allowed only after six years of absence of the disease. Also, the proposed policy implied that Canada would not accept meat from any country which had imported meat and bone meal from a country which had a case of BSE. Under these conditions only one EC member State would qualify to export meat to Canada.

25. The representative of Canada regretted the confusion which the apparently conflicting dates set out in the notification might have caused. He explained that while the BSE policy was already

in force, some changes were proposed and it was on these draft changes that comments were being sought. The representative of Canada stressed that during the comment period, no new border measures had been put into place. Furthermore, considering the continuing substantial discussion between the two countries, the closing date for comments (1 March 1997) would be delayed.

26. The representative of the United States informed the Committee that they had held bilateral discussions with Japan regarding proposed plant quarantine regulations set out in notification **G/SPS/N/JPN/19**. Both Members agreed that the communication process between the two countries had flowed smoothly and that this was a good example of how the transparency provisions of the SPS Agreement could enhance the understanding between Members on points of concern. The representative of Japan maintained that their proposed regulation was based on the pest-risk analysis guidelines of the IPPC.

### **Any Other Matter related to the Operation of the Transparency Provisions**

27. The Chairman informed the Committee that the most recent list of Enquiry Points and National Notification Authorities had been circulated as G/SPS/ENQ/5 and G/SPS/9, with addenda, respectively. It was noted that some Members had yet to notify the Secretariat of their Enquiry Points and a greater number had not notified their National Notification Authority. Members were urged to comply with these obligations as soon as possible. The representative of the United States stressed the importance of using the transparency provisions of the SPS Agreement and expressed concern that less than two-thirds of WTO Members had notified SPS measures.

28. The Secretariat reminded delegates that as of 1 January 1997, all notifications were to be sent directly to the Central Registry of Notifications (CRN). A number of problems remained with regard to the handling of notifications. Delegations continued to send the WTO the full texts of the notified regulations, rather than simply the completed notification format, as explained in G/SPS/7. Also, notifications were submitted under the SPS Agreement when they more appropriately should have been notified under the Technical Barriers to Trade Agreement (TBT Agreement), and vice-versa. The general practice in such cases was to contact the delegation concerned and suggest the change. There were also cases where the same joint standard or equivalency agreement between countries was notified by one Member under the SPS Agreement and by the other under the TBT Agreement. When requested, the Secretariat could provide assistance in completing draft notifications, but at times there had been significant delays before the delegation concerned confirmed that the notification could be circulated. Moreover, Members were reminded that the Secretariat continued the practice of circulating SPS notifications within two to three days of receipt in the language it was received to *all* Members. The translation in the appropriate language followed once available. The Secretariat also informed Members about the WTO Internet page and the possibility of electronically accessing unrestricted documents, including notifications, lists of Enquiry Points and National Notification Authorities.

### **Monitoring the Use of International Standards**

29. The Committee continued its discussion on the development of a procedure to monitor the use of international standards, guidelines and recommendations, as specifically mandated in Article 12:4 of the SPS Agreement. The discussion was primarily based on a second submission by the United States (G/SPS/W/81) and on the March 1996 proposal from the European Communities (G/SPS/W/51). The representative of the United States noted that his country's submission was built on previous Committee documents and discussions, and was intended to provide the basis for further progress in satisfying the Committee's mandate. He stressed the importance of focusing the Committee's efforts on areas which had a major impact on trade. Effectiveness would depend on Members' active

participation in bringing the Committee's attention to specific issues such as trade problems having to do with the non use, the inappropriateness, or the absence of international standards. The representative of the United States underlined that the procedure could not be seen as an effort by the SPS Committee to impose priorities on the relevant international organizations, but rather as a vehicle of communicating with those organizations in a constructive way.

30. The representative of the European Communities, noting that his delegation's proposal (G/SPS/W/51) to initiate the monitoring process by setting up a pilot project had received general support, maintained that this approach be retained and that Members reflect on ways to proceed from that point. Although he requested more time to adequately assess the US proposal, he did not believe that the two proposals were mutually exclusive.

31. Several delegations expressed support for the US proposal (G/SPS/W/81), although many indicated that more time was needed to assess it. It was noted that although it did not go as far in meeting the Committee's obligations as the EC proposal (G/SPS/W/51), it would over time enable the Committee to discharge its obligations in a structured way as well as enable the Committee to review this work on a regular basis. Several delegations stressed that the US proposal's strong point was its practical approach. It would be important that the Committee be flexible in order to make adjustments and corrections on the basis of experience. A number of delegations noted that the two proposals were not mutually exclusive. In order to further this work, it was **agreed** that the Chairman undertake informal consultations to further refine, and perhaps combine, the two proposals so as to enable the Committee to move forwards at its next meeting.

### **Consistency**

32. In introducing a background paper on "Risk Analysis" (G/SPS/W/80), the Secretariat noted that substantial progress had been made in this regard in the three relevant international standard-setting organizations since the SPS Agreement had come into force. The work of these organizations addressed not only risk assessment, but also risk management and, to a lesser extent, risk communication. The purpose of the paper was to describe this work in a summary manner, especially regarding the terminology used, in order to provide background information that might assist delegations to better understand how the work of these organizations related to requirements under the SPS Agreement. The Secretariat stressed that there was no intention to interpret the provisions of the Agreement.

33. The representative of the European Communities maintained that Article 5:5 of the SPS Agreement solely concerned the determination of the appropriate level of protection by each country's political decision makers. He stressed that it was not a scientific process, but a political process. There was furthermore no obligation that such a decision had to be based on a risk assessment. Hence, it was the view of the European Communities that the Secretariat's paper was, by introducing concepts not relevant to Article 5:5, interpreting the agreement. The provision of Article 5:5 set out an objective, and was as such limited in its contribution to the Agreement itself.

34. The representative of Australia expressed the view that the paper helped build the bridges between what was happening in the WTO and what was going on in the relevant international organizations. This was deemed important as the concepts and terminology put forward in the Secretariat's paper had in recent years become more widely understood and more clearly articulated in the work of these organizations. The representative of Australia suggested that paragraph 7 of the Secretariat's document needed to be clarified to the extent that the concept of risk involved not only an estimation of the size of potential damage, but also the probability, or likelihood, of such damage occurring.

35. The representatives of Australia and Argentina maintained that the disciplines on risk management decisions within the SPS Agreement were crucial to ensuring the effectiveness of the Agreement. While the concept of the acceptable level of protection was one which was a matter of national sovereignty and appropriately applied at the national level on a *broad basis*, the representative of Australia maintained that the concept could not be applied to individual decisions on individual sanitary or phytosanitary measures on an arbitrary, unjustifiable, discriminatory, or trade restrictive way. In this regard, the representative of Argentina rejected the idea that a country could, by means of subjective political decisions, ignore science. In accepting the WTO Agreement, Members had in fact given up a part of their sovereignty in order to respect certain commonly agreed disciplines, and avoid the undue influences of sectorial interests. Both delegations strongly endorsed the continued endeavours of the Committee to develop guidelines for the implementation of Article 5:5.

36. The representative of the European Communities contended that different views on Article 5:5 did not in any way nullify the effectiveness of the Agreement. He reasoned that consistency in the setting of the level of protection would lead to an overall *increase* in that level and more trade difficulties, as Members were not likely to endeavour to be consistent by lowering their level of protection across the board. The EC representative agreed that the Chairman should continue his task of developing the guidelines on consistency but warned the Committee not to devote too much importance to Article 5:5 relative to other parts of the Agreement. In this sense the Secretariat's paper had been helpful in clarifying the fundamental differences in the way Members understood Article 5:5.

37. The Chairman reported that he had met on a number of occasions with interested delegations to consider draft guidelines to further the practical implementation of the provision regarding consistency in decisions on the appropriate level of protection, as required by Article 5:5. He noted that considerable progress had been made on the structure of the guidelines and on the substance of a number of guidelines. There remained, however, different views on the role of risk assessment and that, if any at all, of risk management. Also, there were diverging opinions on how to understand the relationship between international harmonization and national consistency. The work was made more complicated as Members learned more about the subject and consequently changed their views. The Committee took note of the Chairman's report and **agreed** to continue informal consultations with a view to furthering the development of guidelines.

### **Technical Assistance and Cooperation**

38. The Secretariat reported on its technical cooperation activities undertaken since the last meeting of the Committee. In cooperation with the Codex Alimentarius Commission, the OIE and the WHO, two further regional Seminars had been held - one in the Gulf region (Dab) and another in the North African region (Cairo), in December 1996. The purpose of the seminars, as with earlier ones, was to inform governments of the basic rights and obligations set out in the SPS Agreement and explain the role of the relevant international organizations in this context. The Secretariat thanked the US Government for providing funds and resources for the organization of the two seminars. A WTO Seminar on the SPS Agreement had also been held in connection with the meeting of the Codex Co-ordinating Committee for Africa, in Hairier, in November 1996, at which 21 African countries had participated. In Geneva, the Secretariat had organized three Informal Information Sessions (in the respective official WTO languages) for interested delegates. Aside from other *ad hoc* meetings with groups and individual delegations in Geneva, the Secretariat was willing to participate in international or regional activities where it was thought that their input might be useful. However, it was stressed, availability was subject to the work load in the Division. It was furthermore noted that there would be some information forthcoming on the Programme of Technical Assistance for 1997 from the Committee on Trade and Development.



39. The representative of the Codex Alimentarius Commission noted that **FAO** was active in providing a wide range of technical assistance at country level, including the training of food-control officials. In addition to a range of seminars and workshops that had been organized with other international organizations, the FAO was currently carrying out 19 projects on strengthening food-control activities and had carried out more than 100 similar projects in the past years to help countries improve their food quality and safety activities. Within the limits of their resources, the FAO was willing to provide further technical assistance and welcomed the close cooperation with the WTO, the OIE and the IPPC.

40. The representative of the **ITC** informed the Committee that it had been active in disseminating information about the SPS and TBT Agreements as a follow-up to the Uruguay Round. This was done through one-day seminars that mainly aimed at informing business communities about the implications of the Agreements. These seminars had been conducted in more than 20 countries in Africa, Latin America and Asia in 1996; a similar number of countries were expected to be covered in 1997.

41. The representative of the **IPPC** reminded the Committee that requirements to justify phytosanitary restrictions on science were increasing the need for technical assistance, especially with regard to certification and import inspection services. Improvements were very slow and resources for assistance were limited. The representative of Pakistan supported the statement of the IPPC.

42. The representative of the **WHO** reported on a number of seminars conducted for Eastern Europe on food security and policy. The seminars had disseminated information on risk assessment and the establishment of national food standards.

43. The representative of the **OIE** likewise informed the Committee on its technical cooperation activities. He noted that OIE's assistance addressed two aspects; first, the diagnosis of animal disease and second, assistance and advice in combating these diseases. Substantial progress had recently been made in the establishment of a coordination unit in the fight against Foot and Mouth Disease in South East Asia.

44. In thanking the international organizations and the Secretariat for the technical cooperation provided, the representatives of Egypt, India and Pakistan drew the Committee's attention to special difficulties encountered by developing countries with respect to the preparation, development and application of SPS measures, both with regard to imports and exports. They maintained that awareness was not sufficiently high despite the fact that the transition period for developing countries had expired on 1 January 1997. The Secretariat was requested to prepare a brief paper identifying the issues that had been raised at seminars with regard to the difficulties encountered in the implementation of the SPS Agreement in developing countries. Such a paper might help identify areas for future technical assistance and be a means of determining ways to address the difficulties observed. The Secretariat indicated that it would consider the possibility of preparing a paper which, on a factual basis, addressed the kind of issues brought to its attention in the context of seminars and technical assistance. The representative of Colombia requested assistance and cooperation from the Secretariat with regard to the implementation of the SPS Agreement.

45. While appreciating the need developing countries had for technical assistance, the representative of the United States expressed concern that the issue be associated with the provisions on transition periods in the Agreement. The fact that procedures in all Member countries were constantly being improved and developed did not in any way remove Member's obligations under the SPS Agreement.

## **Matters of Interest Arising from the Work of Observer Organizations**

### *Revision of IPPC*

46. The Chairman reminded the Committee that a number of documents had been circulated with regard to the Revision of the IPPC (G/SPS/W/65, W/69, W/70 and W/77). The representative of the IPPC, reporting on the January 1997 inter-governmental technical consultation on the revision of the IPPC, noted that although substantial progress had been made, many issues remained insufficiently discussed and not fully considered. A general understanding had been reached on the inclusion of regulated non-quarantine pests in the scope of the new Convention. The establishment of a Commission on phytosanitary measures was supported by most countries, although some expressed concern about the financial resources needed to operate such a commission. Differences remained on the wording of the Phytosanitary Certificate. Lastly, the technical consultation had decided that a working group, charged with the negotiation of the final text of the revised IPPC, would be established at the meeting of the FAO Committee on Agriculture in April 1997. The Working Group would report back to the Committee on Agriculture before the end of its meeting, and that body would decide whether the text could be recommended for adoption by the FAO Conference in November 1997.

47. The Chairman of the SPS Committee, who had participated in the January 1997 technical consultation, felt that there had been a lack of understanding on the relationship between the SPS Agreement and the IPPC. This could, at least in part, have been due to insufficient national coordination. The Chairman stressed the importance that the definitions set out in the revised IPPC enabled the scope of the Convention to be at least as wide as that of the SPS Agreement. Furthermore, the role of the standards had to be clarified and the establishment of a Commission was needed in order for the IPPC to become operative and enhance the implementation of the SPS Agreement. Members were urged to coordinate at national level in order to ensure that their appropriate officials were aware of the importance of the outstanding issues. The representative of Japan reaffirmed the importance of enhanced coordination between government representatives that were working with the amendment of the IPPC and those involved with WTO matters.

### *Draft Agreement between the WTO and the OIE*

48. The Chairman recalled that in May 1996, the Committee had considered a draft Agreement between the WTO and the OIE (G/SPS/W/61). At that point there had been no specific, substantive concerns raised by Members. However, as a decision to adopt the Agreement in the OIE had been postponed to allow sufficient time to consider it, the SPS Committee had not brought the process any further at that time. It was noted that the OIE would propose the text for adoption in May 1997, at its annual session in Paris. The SPS Committee raised no objections on the proposed agreement, however, the representative of Argentina reserved the right of his government to identify any objections within 20 days following the meeting. A formal decision on the draft Agreement would be taken at the next meeting of the SPS Committee.

### *Other issues*

49. The representative of the IPPC noted that the next session on the FAO Committee on Agriculture would consider two new standards and make a recommendation to the FAO Conference for their adoption. One dealt with export certification systems and the second provided guidelines for certification.

50. The representative of the OIE reported on the standard-setting work to be discussed at the upcoming General Session of the OIE International Committee, 26-30 May 1997. Among other issues,

the Committee of the International Zoosanitary Code was considering new proposals on surveillance systems with regard to countries free of BSE. The Third Edition of the Manual of Standards for Diagnostic Tests and Vaccines had just been published. The equivalent with regard to the Fish Diseases Committee, the Diagnostic Manual for Aquatic Animal Diseases, would be submitted for adoption at the May 1997 meeting.

51. The representative of the WHO reported on a number of activities by the FAO, the WHO and the Codex. He noted that the reports from several of these events were available at the FAO's or WHO's Internat sites. In relation to BSE, the WHO had held two consultations in 1996 (April and May) and a further was scheduled for late March 1997, in Geneva. In response to concerns regarding a series of food-borne outbreaks of enterohaemorrhagic E-coli, a consultation aimed at addressing its prevention and control was scheduled for April 1997. Regarding Codex activities, the representative of the WHO noted that the Codex Committee on Food Hygiene had agreed to revise the Codex Guidelines on the Application of the HACCP-system. This revision would be discussed at the next meeting of the Codex Alimentarius Commission (CAC). Work had also started on the elaboration of a document addressing the principles of microbiological risk assessment. The amendment of Codex acceptance and notification procedures had been considered at the Codex Committee on General Principles in Paris, November 1996, but no consensus was reached. Lastly, the Codex Committee on Food Import and Export Inspection and Certification Systems, which met in February 1997 (Sydney), had decided to forward the Codex Guidelines for the Design and Operation of Food Import and Export Inspection Systems to Step 8 of the Codex elaboration procedures. These were expected to be adopted at the CAC in June 1997, in Geneva.

## **Other Business**

### *Salmonella*

52. The representative of the United States reiterated their concern regarding measures adopted by a number of their trading partners, among them Chile and the Czech Republic, on the control of salmonella. In particular, Chile had not substantiated their claim that salmonella was less prevalent in domestic poultry stocks compared to the imported product, and the Czech Republic continued to maintain a zero-tolerance policy on imported poultry. Furthermore, it was the understanding of the United States that the Central American Common Market had agreed to harmonize sanitary requirements for poultry meat imports. The United States was interested in knowing when such legislation would be drafted and implemented.

53. The representative of Chile recalled the document submitted at the previous meeting of the Committee on the same subject (G/SPS/GN/3). He noted that with regard to imports of poultry meat, sampling methods were used. The practice was not discriminatory as it applied to all suppliers and had, for instance, allowed Denmark to export poultry meat to Chile. With regard to the health of domestic poultry stocks (national treatment), the competent authorities in Chile maintained a rigorous epidemiological monitoring system with particular focus on salmonella. This policy had been further strengthened in applying the HACCP risk analysis method for poultry production. These health standards had enabled Chilean poultry to gain access to particularly difficult markets such as the European Communities, Japan and Hong Kong. Chile remained open to further discussions with the United States.

*Korean import clearance procedures*

54. The representative of the United States noted that consultations with Korea on import clearance procedures continued. Although encouraged by some changes Korea had implemented, concerns remained. The representative of Korea indicated that his country's programme to improve its inspection and quarantine procedures had already been introduced at the previous meeting of the Committee (G/SPS/GN/6). The Committee was assured that Korea would continue its efforts to streamline and conform its sanitary and phytosanitary legislation to the SPS Agreement.

*Honduras' restrictions on imports of rough rice*

55. The representative of the United States expressed concern that Honduras had not yet lifted its restrictions on imports of rough rice. The representative of Honduras assured the Committee that his authorities would intensify efforts to reach a rapid solution to the problem.

*Spanish regulations affecting imported squid*

56. Recalling yet another issue raised at a previous meeting of the Committee, the US representative indicated continued concern with regard to the apparently discriminatory nature of Spanish regulations affecting imported squid. The representative of the European Communities maintained that in addition to WHO recommendations on maximum daily intakes of cadmium and copper, it had to be taken into account that Spain had a particularly high consumption of the products in question. This consideration had been the basis for the regulation introduced by the Spanish authorities. With regard to the alleged discriminatory nature of the measure, the EC representative noted that although the norm referred only to third countries, in practice it was recognized by EC member States within the Communities. In addition, the majority of squid imported into Spain came from outside the European Communities.

*Japanese varietal testing requirements for fruits*

57. The representative of the United States recalled Japan's extensive testing requirements on different varieties of the same fruit. The United States was currently in the process of reviewing new information provided by Japan on the matter. The representative of Japan noted that his authorities would continue to make bilateral efforts in order to reach a solution.

*Australia's ban on salmon imports*

58. The representatives of Canada and the United States noted their concern that Australia had decided to maintain its ban on imports of fresh, chilled and frozen salmon on the basis of a second risk assessment. US authorities were in the process of reviewing the risk assessment, but remained unconvinced. Canada had formally requested the establishment of a panel in the Dispute Settlement Body (20 March 1997), but the request had not been accepted by Australia. The representative of Australia reiterated that the risk assessment undertaken was one of the longest and most intensive scientific risk assessments ever performed by Australia. It had been published and was available for those interested.

*Risk Analysis and Animal Health - International Training Course*

59. The representative of Switzerland announced that its Federal Veterinary Office, together with the New Zealand Ministry of Agriculture would organize, as they had done last summer, a one-week course on risk analysis. The course would be held between 13-18 July 1997, in Dübendorf, Switzerland. Information about the course could be obtained from the Secretariat or directly from Swiss veterinary authorities.

*Protected zones and the European Communities*

60. The representative of Uruguay, supported by Mexico, South Africa and Chile, expressed concern about an EC decision to eliminate the criteria of protected zones or areas within the Community territory. The consequence, it was feared, could be the strengthening and extension of phytosanitary requirements to the whole of the Community. Chile was concerned about negative consequences on exports of citrus fruits. Delegations requested the European Communities to clarify the technicalities and scientific basis for the proposal and provide information on when the plan would be notified. The representative of the European Communities noted that the issue reflected current discussion in the Standing Plant Health Committee; he would forward the concerns to the relevant plant health authorities. He indicated that the policy the European Communities would pursue meant that access to the European Communities would depend on the conditions at the origin of the exports.

*Cosmetics and BSE*

61. The representative of Australia drew the Committee's attention to Commission Directive 97/1/EC of 10 January 1997, notified under the SPS Agreement as G/SPS/N/EEC/43. The directive related to cosmetic products and implied that EC member States would take all necessary measures to ensure that as of 30 June 1997, cosmetic products containing certain substances - i.e. bovine, ovine, and caprine tissues and fluids from the brain, spinal cord, eyes, and ingredients derived thereof - would not be placed on the market. Supported by Brazil, the Australian representative expressed concern that the directive apparently did not recognize that the animal health status of supplying countries might differ from that within the European Communities. The legislation seemed, therefore, not to be in conformity with Article 6 of the SPS Agreement.

62. In response, the representative of the European Communities stressed that there was considerable uncertainty surrounding the global prevalence of BSE. Considering that the degree of surveillance on a world-wide basis was still under development, and that detection was made difficult because of its long incubation period, there was in fact not much known about the existence of BSE outside the European Communities, or for that matter, within the Communities. It was noted that all comments, as well as further scientific evidence, would be taken into account until 18 April 1997, and that the regulation would enter into force on 1 July 1997.

*Canada's new Government agency*

63. The representative of Canada informed the Committee that Canada was in the process of bringing together its food and quarantine inspection activities into a single Government agency. Prior to the creation of the agency, food inspection in Canada had been done by three separate federal departments: Agriculture, Fisheries and Health. The organizational changes would shortly be brought to the attention of Canada's trading partners.

### **Appointment of Chairperson**

64. The Chairman drew the Committee's attention to the fact that his term of office would terminate at the end of the current meeting. The Council for Trade in Goods had appointed Dr. Alex Thiermann (United States) as the new Chairperson of the SPS Committee. Delegations thanked Ambassador Bergholm for his excellent contribution as Chairman of the SPS Committee and welcomed the new Chairman.

### **Date and Agenda of Next Meeting**

65. The following provisional agenda for the meeting of 1-2 July 1997 (tentative date) was agreed:

- A. Adoption of the agenda
- B. Observers
- C. Implementation of the Agreement
  - (i) Information from Members
  - (ii) Specific trade concerns
- D. Transparency Provisions:
  - (i) Consideration of specific notifications received
  - (ii) Any other matters related to the operation of transparency provisions
- E. Monitoring of use of international standards
- F. Consistency
- G. Technical assistance and cooperation
- H. Matters of interest arising from the work of observer organizations
  - (i) Revision of IPPC
  - (ii) Draft Agreement between the WTO and the OIE
- I. Other business
- J. Date and agenda of next meeting